



Brit. 524-7

~~Angel 524~~

<36605151700013

<36605151700013

Bayer. Staatsbibliothek

Ed 2880

STATE TRIALS

AND

PROCEEDINGS

UPON

High Treason,

AND OTHER

Crimes and Misdemeanors;

FROM

The Reign of King RICHARD II.

TO

The End of the Reign of King GEORGE I.

WITH

An Alphabetical TABLE of the Names of the Persons tried or proceeded against; the Crimes for which they were tried, and the Punishments of such as were convicted.

The SEVENTH VOLUME.

LONDON: Printed for THO. WORTON, at the *Queens-head* and *Three Daggers* over-against St. *Dunstan's Church* in *Fleet-street*; THO. OSBORNE in *Grays-Inn*; and J. SHUCKBURGH, at the *Sun* next the *Inner Temple Gate* in *Fleet-street*. MDCCXXXI.

STATE TRIALS

AND

PROCEEDINGS

UPON

High Treason,

AND OTHER

Crimes and Misdemeanors;

FROM

The Reign of King Richard II.

TO

The End of the Reign of King George I.

WITH

An Alphabetical Table of the Names of the
Persons tried or proceeded against; the Crimes
for which they were tried; and the
names of such as were convicted.

THE SECOND VOLUME.

Bayerische
Staatsbibliothek
München

A N Alphabetical T A B L E

O F T H E

NAMES of the Persons tried or proceeded against,
the *Crimes* for which they were tried, and the *Pu-*
nishments of such as were convicted in the Six Vo-
lumes in Folio.

Year.	Names.	Crimes.	Punishments.
A.			
1586	Abington	High Treason	Hang'd
1679	Anderson	A Romish Priest	Repriev'd
1668	Appletree	High Treason	Pardon'd
1661	Argyle (<i>Marquiss</i>)	High Treason	Beheaded
1681	Argyle (<i>Earl</i>)	High Treason	Beheaded
1684	Armstrong (<i>Sir Tho.</i>)	High Treason	Hang'd, &c.
1589	Arundel (<i>Earl</i>)	High Treason	Died in Prison
1690	Ashton	High Treason	Hang'd
1678	Atkins (<i>Samuel</i>)	Murder of Sir E. B. G.	Acquitted
1679	Atkins (<i>William</i>)	Romish Priest	Guilty
1723	Atterbury (<i>Bishop</i>)	A Treasonable Conspiracy	Banish'd
1631	Audley (<i>Lord</i>)	A Rape and Sodomy	Beheaded
1660	Axtel	A Regicide	Hang'd, &c.
B.			
1586	Babington	High Treason	Hang'd, &c.
1620	Bacon (<i>Lord</i>)	Bribery and Corruption	Fin'd and imprison'd
1684	Baillie	High Treason	Hang'd, &c.
1586	Ballard	High Treason	Hang'd, &c.
1634	Balmerino (<i>Lord</i>)	A Treasonable Libel	Pardon'd
1683	Barnardiston (<i>Sir Sam.</i>)	A Misdemeanour	Fin'd
1586	Barnewell	High Treason	Hang'd, &c.
1637	Bastwick	A Libel	Pillory'd, Ears cut off, and imprison'd
1685	Bateman	High Treason	Hang'd, &c.
1605	Bates	Gunpowder Plot	Hang'd, &c.
1701	Bayard (<i>Col.</i>)	High Treason	Repriev'd
1702	Baynton	A forcible Marriage	Repriev'd
1668	Beadle	High Treason	Acquitted
1668	Beaflly	High Treason	Hang'd, &c.
1586	Bellamy	High Treason	Hang'd, &c.
1678	Berry	Murder of Sir E. B. G.	Hang'd
1681	Bethel	Assault and Battery	Fin'd
1688	Bishops (<i>seven</i>)	A Libel	Acquitted
1683	Blague	High Treason	Acquitted
1600	Blunt (<i>Sir Christopher</i>)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1662	Bolton	Refusing to take the Oaths	Imprison'd
1718	Bonnet (Maj.) and others	Piracy	Hang'd
1681	Borosky	Murder of Mr. Thynn	Hang'd
1567	Bothwell (Earl)	Murder of King of Scots	Acquitted
1703	Bouchier	High Treason	Repriev'd
1683	Braddon	A Misdemeanour	Fin'd
1388	Brambre (May. of Lon.)	High Treason	Hang'd, &c.
1663	Brewster	A Libel	Pillory'd, fin'd, and } imprison'd
1679	Brommich	A Romish Priest	Guilty
1663	Brooks	A Libel	Pillory'd, fin'd, and } imprison'd
1631	Brodway	A Rape and Sodomy	Hang'd
1633	Buckner	A Libel	Censur'd
1637	Burton	A Libel	Pillory'd, Ears cut } off, and imprison'd
1681	Busby	A Romish Priest	Repriev'd
1699	Butler	Forgery	Fin'd
C.			
1687	Cambridge (University)	A Contempt	Vice Chanc. depriev'd
1680	Carr	A Libel	Guilty
1660	Carew	A Regicide	Hang'd, &c.
1715	Carnwarth (Earl)	High Treason	Pardon'd
1688	Cavenagh and others	Cow-stealing	Hang'd
1680	Cellier	High Treason	Acquitted
1680	The same	A Libel	Pillory'd and fin'd
1648	Charles (King)	High Treason	Beheaded
1695	Charnock (Robert)	High Treason	Hang'd, &c.
1586	Charnock (John)	High Treason	Hang'd, &c.
1663	Clarendon (Earl)	H. Treason and H. Crimes	Banish'd
1660	Clement	A Regicide	Hang'd, &c.
1721	Coke (Arundel)	Slitting Mr. Crispe's Nose	Hang'd
1692	Cole	Murder of Dr. Clench	Acquitted
1678	Coleman	High Treason	Hang'd, &c.
1681	College	High Treason	Hang'd, &c.
1660	Cook (John)	A Regicide	Hang'd, &c.
1696	Cook (Peter)	High Treason	Pardon'd
1681	Conningsmark (Count)	Murder of Mr. Thynn	Acquitted
1679	Corker	High Treason	Acquitted
1679	The same	A Romish Priest	Repriev'd
1678	Cornwallis (Lord)	Murder of Clerk	Acquitted
1683	Cornish and others	A Riot	Fin'd
1685	The same	High Treason	Hang'd, &c.
1668	Cotton	High Treason	Hang'd, &c.
1699	Cowper and others	Murder of S. Stout	Acquitted
1696	Cranburne	High Treason	Hang'd, &c.
1662	Croke	Refusing to take the Oaths	Imprison'd
1600	Cuffe	High Treason	Hang'd, &c.
1679	Curtis	A Libel	Guilty
D.			
1678	Danby (Earl)	High Treason	Pardon'd
1600	Davers (Sir Charles)	High Treason	Beheaded
1600	Davis	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1696	Dawson and others	Piracy	Hang'd
1685	Delamere (Lord)	High Treason	Acquitted
1715	Derwentwater (Earl)	High Treason	Beheaded
1605	Digby (Sir Everard)	Gunpowder Plot	Hang'd, &c.
1586	Donn	High Treason	Hang'd, &c.
1663	Dover	A Libel	Pillory'd, fin'd, and imprison'd
1660	Downes	A Regicide	Repriev'd
E.			
1668	Earles	High Treason	Acquitted
1690	Elliot	High Treason	Not tried
1615	Elvis (Sir Jervis)	Murder of Sir T. Overb.	Hang'd
1600	Effex (Earl)	High Treason	Beheaded
1613	Effex (E. and Countess)		Divorc'd
F.			
1668	Farrel	High Treason	Acquitted
1682	Farewell	Libels	Pillory'd and fin'd
1605	Fawkes	Gunpowder Plot	Hang'd, &c.
1679	Fenwick	High Treason	Hang'd, &c.
1696	Fenwick (Sir John)	High Treason	Beheaded
1685	Fernley	High Treason	Repriev'd
1706	Fielding	Bigamy	Pardon'd
1707	The same	Marriage with the Dutch.	of Cleveland annull'd
1643	Fiennes (Col.)	Cowardice	Pardon'd
1681	Fitz-Harris	High Treason	Hang'd, &c.
1631	Fitz-Patrick	A Rape and Sodomy	Hang'd
1660	Fleetwood	A Regicide	Repriev'd
1668	Ford	High Treason	Acquitted
1654	Fox	High Treason	Pardon'd
1716	Francia	High Treason	Acquitted
1615	Franklin	Murder of Sir T. Overb.	Hang'd
1695	Friend (Sir John)	High Treason	Hang'd, &c.
1702	Fuller	An Imposter	Pillory'd, &c.
G.			
1586	Gage	High Treason	Hang'd, &c.
1660	Garland	A Regicide	Repriev'd
1606	Garnet	Gunpowder Plot	Hang'd, &c.
1679	Gascoigne (Sir Tho.)	High Treason	Acquitted
1679	Gavan	High Treason	Hang'd, &c.
1685	Gaunt	High Treason	Burnt
1654	Gerhard	High Treason	Beheaded
1662	Gibbs	High Treason	Hang'd, &c.
1651	Gibbons	High Treason	Beheaded
1719	Gilbert (C. Baron) &c.	A Contempt.	Imprison'd
1680	Giles	Attempt to murder } Mr. Arnold }	Pillory'd and fin'd
1605	Grant	Gunpowder Plot	Hang'd, &c.
1704	Green (Capt.) and his Crew }	Piracy	Hang'd
1678	Green (Robert)	Murder of Sir E. B. G.	Hang'd
1668	Green (William)	High Treason	Acquitted
1662	Grey	Refusing to take the Oaths	Imprison'd

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1678	Grove	High Treason	Hang'd, &c.
1682	Grey (Lord) and others	A Misdemeanour	No Judgment
H.			
1701	Halifax (Lord)	High Misdemeanours	Acquitted
1660	Hacker	A Regicide	Hang'd, &c.
1637	Hampden (John)	Skip-Money	Judgment against him
1683	Hampden (John)	High Misdemeanours	Fin'd
1685	The same	High Treason	Pardon'd
1648	Hamilton (Duke)	High Treason	Beheaded
1679	Harris	A Libel	Pillory'd, fin'd, and imprison'd
1638	Harrison (Tho.)	Misdemeanour	Fin'd and imprison'd
1660	Harrison (Tho.)	A Regicide	Hang'd, &c.
1692	Harrison (Henry)	Murder of Dr. Clench	Hang'd
1679	Harcourt	High Treason	Hang'd, &c.
1702	Hartwell	A forcible Marriage	Acquitted
1660	Harvey	A Regicide	Repriev'd
1702	Hathaway	An Impostor	Pillory'd, &c.
1701	Haversham (Earl)		Acquitted
1668	Hawkins	Felony	Acquitted
1684	Hayes	High Treason	Acquitted
1660	Heveningham	A Regicide	Repriev'd
1658	Hewet (Dr.)	High Treason	Beheaded
1571	Hickford	High Treason	
1678	Hill	Murder of Sir E. B. G.	Hang'd
1662	Hind	High Treason	Repriev'd
1615	Hollis (Sir John)	Misdemeanour	Fin'd
1684	Holloway	High Treason	Hang'd, &c.
1683	Hone	High Treason	Hang'd, &c.
1660	Hulet	A Regicide	Repriev'd
1701	Hurly	Perjury	Fin'd
I.			
1662	James	High Treason	Hang'd, &c.
1586	Jones (Edward)	High Treason	Hang'd, &c.
1660	Jones (John)	A Regicide	Hang'd, &c.
1388	Ireland (Duke)	High Treason	Escap'd
1678	Ireland	High Treason	Hang'd, &c.
K.			
1664	Keach	A Libel	Pillory'd, fin'd, and imprison'd
1723	Kelly	A Treasonable Conspiracy	Imprison'd
1695	Kendal and Roe	Habeas Corpus	Bail'd
1715	Kenmure (Viscount)	High Treason	Beheaded
1679	Kemish	A Romish Priest	Arrain'd only
1679	Kerne	High Treason	Acquitted
1605	Keys (Robert)	Gunpowder Plot	Hang'd, &c.
1695	Keys (Thomas)	High Treason	Hang'd, &c.
1701	Kidd (Capt.) and others	Murder and Piracy	Hang'd
1695	King	High Treason	Hang'd, &c.
1702	Kirkby and others	Desertion	Shot to death
1696	Knightley	High Treason	Pardon'd
1679	Knox	A Misdemeanour	Fin'd and imprison'd

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
L.			
1679	Lane	<i>A Misdemeanour</i>	<i>Pillory'd, fin'd, and } imprison'd }</i>
1679	Langhorne	<i>High Treason</i>	<i>Hang'd, &c.</i>
1668	Latimer	<i>High Treason</i>	<i>Pardon'd</i>
1643	Laud (<i>Archbishop</i>)	<i>High Treason</i>	<i>Beheaded</i>
1722	Layer	<i>High Treason</i>	<i>Hang'd, &c.</i>
1679	Lewis	<i>High Treason</i>	<i>Hang'd, &c.</i>
1649	Lilburne (<i>Col.</i>)	<i>High Treason</i>	<i>Acquitted</i>
1653	<i>His Jury</i>		
1660	Lilburne (<i>Robert</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1668	Limerick	<i>High Treason</i>	<i>Hang'd, &c.</i>
1704	Lindsay	<i>High Treason</i>	<i>Repriev'd</i>
1685	Lisle (<i>Lady</i>)	<i>High Treason</i>	<i>Beheaded</i>
1686	London (<i>Bishop</i>)	<i>A Contempt</i>	<i>Suspended</i>
1683	London (<i>City</i>)	<i>Quo Warranto</i>	<i>Charter forfeited</i>
1651	Love	<i>High Treason</i>	<i>Beheaded</i>
1696	Lowick	<i>High Treason</i>	<i>Hang'd, &c.</i>
1615	Lumsden	<i>Misdemeanour</i>	<i>Fin'd</i>
1679	Lumsden	<i>A Romish Priest</i>	<i>Repriev'd</i>
M.			
1644	Macguire (<i>Lord</i>)	<i>High Treason</i>	<i>Hang'd, &c.</i>
1725	Macclesfield (<i>Earl</i>)	<i>High Misdemeanours</i>	<i>Fin'd</i>
1687	Magdalen College	<i>A Contempt</i>	<i>Fellows expell'd</i>
1679	Marshall (<i>William</i>)	<i>High Treason</i>	<i>Acquitted</i>
1679	<i>The same</i>	<i>A Romish Priest</i>	<i>Repriev'd</i>
1660	Marten (<i>Harry</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1670	Mead (<i>Will.</i>)	<i>A Tumult</i>	<i>Acquitted</i>
1600	Merrick (<i>Sir Gilly</i>)	<i>High Treason</i>	<i>Hang'd, &c.</i>
1668	Messenger	<i>High Treason</i>	<i>Hang'd, &c.</i>
1660	Meyne	<i>A Regicide</i>	<i>Repriev'd</i>
1660	Millington	<i>A Regicide</i>	<i>Repriev'd</i>
1677	Mitchel	<i>Attempt to murder the } Archb. of St. Andrews }</i>	<i>Hang'd</i>
1663	Moders (<i>Germ. Princess</i>)	<i>Bigamy</i>	<i>Acquitted</i>
1692	Mohun (<i>Lord</i>)	<i>Murder of Mountford</i>	<i>Acquitted</i>
1699	<i>The same</i>	<i>Murder of Coote</i>	<i>Acquitted</i>
1615	Monson (<i>Sir Tho.</i>)	<i>Murder of Sir T. Overb.</i>	<i>Not tried</i>
1658	Mordaunt	<i>High Treason</i>	<i>Acquitted</i>
1535	More (<i>Lord Chancellor</i>)	<i>High Treason</i>	<i>Beheaded</i>
N.			
1715	Nairn (<i>Lord</i>)	<i>High Treason</i>	<i>Pardon'd</i>
1656	Naylor	<i>Blasphemy</i>	<i>Whipt, Pillory'd, } Branded, &c. }</i>
1388	Nevil (<i>Archb. of York</i>)	<i>High Treason</i>	<i>Escap'd</i>
1715	Nithisdale (<i>Earl</i>)	<i>High Treason</i>	<i>Escap'd</i>
1571	Norfolk (<i>Duke</i>)	<i>High Treason</i>	<i>Beheaded</i>
1699	Norfolk (<i>D. and Dutch.</i>)	<i>Adultery</i>	<i>Divorc'd</i>
O.			
1413	Oldcastle (<i>Ld. Cobham</i>)	<i>Herefy</i>	<i>Hang'd and burnt</i>
1684	Oates	<i>Scand' Magn'</i>	<i>Damages 100,000 l.</i>

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Tresilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine) }	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Preficks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfer (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfer (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Tresilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfer (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfer (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trechilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Preficks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerset (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerset (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Prefficks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerset (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerset (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Man slaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Man slaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Paricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Tresilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Prefficks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Preflicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerset (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerset (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Prefficks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerſet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerſet (Counteſs)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standſfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romiſh Prieſt	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swenſden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Hereſy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manſlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Treſilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerset (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerset (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Treilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerſet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerſet (Counteſs)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Cenſur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standſfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romiſh Prieſt	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swenſden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Hereſy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manſlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Treſilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerset (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerset (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerset (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerset (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, &c.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, &c.
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Man slaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Prefficks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, &c.
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut off, and imprison'd
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and imprison'd
1721	Reason	Murder of Capt. Lutterell	Man slaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lora)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Tresilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Prefficks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1626	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	<i>A Riot</i>	<i>Fin'd</i>
1709	Sacheverell (Dr.)	<i>H. Misdemeanour</i>	<i>Silenc'd for 3 Years</i>
1586	Salisbury	<i>High Treason</i>	<i>Hang'd, &c.</i>
	Savage	<i>High Treason</i>	<i>Hang'd, &c.</i>
	Scots (<i>Queen</i>)	<i>A Conspiracy agt. Q. Eliz.</i>	<i>Beheaded</i>
1660	Scot	<i>A Regicide</i>	<i>Hang'd, &c.</i>
1660	Scroop	<i>A Regicide</i>	<i>Hang'd, &c.</i>
1677	Shaftesbury (<i>Earl</i>)	<i>Habeas Corpus</i>	
1681	<i>The same</i>	<i>High Treason</i>	<i>Ignoramus</i>
1662	Sellers	<i>High Treason</i>	<i>Repriev'd</i>
1632	Sherfield	<i>A Misdemeanour</i>	<i>Fin'd</i>
1683	Shute, and others	<i>A Riot</i>	<i>Fin'd</i>
1683	Sidney (<i>Col.</i>)	<i>High Treason</i>	<i>Beheaded</i>
1658	Slingsby (<i>Sir Henry</i>)	<i>High Treason</i>	<i>Beheaded</i>
1660	Smith (<i>Henry</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1679	Smith (<i>Francis</i>)	<i>A Libel</i>	<i>Fin'd</i>
1701	Somers (<i>Lord</i>)	<i>H. Misdemeanours</i>	<i>Acquitted</i>
1616	Somerfer (<i>Earl</i>)	<i>Murder of Sir T. Overb.</i>	<i>Pardon'd</i>
1616	Somerfet (<i>Countess</i>)	<i>Murder of Sir T. Overb.</i>	<i>Pardon'd</i>
1600	Southampton (<i>Earl</i>)	<i>High Treason</i>	<i>Repriev'd</i>
1633	Sparkes	<i>A Libel</i>	<i>Censur'd</i>
1683	Speke	<i>A Misdemeanour</i>	<i>Fin'd</i>
1608	Sprot	<i>High Treason</i>	<i>Hang'd</i>
1702	Spurr	<i>A forcible Marriage</i>	<i>Acquitted</i>
1687	Standfield	<i>Parricide</i>	<i>Hang'd, &c.</i>
1681	Stapleton (<i>Sir Miles</i>)	<i>High Treason</i>	<i>Acquitted</i>
1679	Starkey	<i>A Romish Priest</i>	<i>Repriev'd</i>
1680	Stafford (<i>Earl</i>)	<i>High Treason</i>	<i>Beheaded</i>
1678	Stayley	<i>High Treason</i>	<i>Hang'd, &c.</i>
1681	Sterne	<i>Murder of Mr. Thynn</i>	<i>Hang'd</i>
1708	Stirling, and others	<i>High Treason</i>	<i>Acquitted</i>
1640	Strafford (<i>Earl</i>)	<i>High Treason</i>	<i>Beheaded</i>
1653	Streater (<i>Capt.</i>)	<i>Habeas Corpus</i>	<i>Discharg'd</i>
1662	Stubbs	<i>High Treason</i>	<i>Hang'd, &c.</i>
1388	Suffolk (<i>Earl</i>)	<i>H. Treason and</i>	<i>Escap'd</i>
1702	Swensden	<i>H. Misdemeanours</i>	<i>Hang'd</i>
	<i>A forcible Marriage</i>		
	T.		
1679	Tasborough	<i>Subornation of Perjury</i>	<i>Fin'd</i>
1660	Temple (<i>James</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1660	Temple (<i>Peter</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1682	Thompson	<i>Libels</i>	<i>Pillory'd and fin'd</i>
1407	Thorpe	<i>Heresy</i>	<i>Imprison'd</i>
1554	Throckmorton	<i>High Treason</i>	<i>Acquitted</i>
	<i>His Jury</i>		<i>Fin'd</i>
1680	Thwing	<i>High Treason</i>	<i>Hang'd, &c.</i>
1586	Tilney	<i>High Treason</i>	<i>Hang'd, &c.</i>
1586	Titchburne	<i>High Treason</i>	<i>Hang'd, &c.</i>
1660	Titchburne (<i>Robt.</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1662	Tonge	<i>High Treason</i>	<i>Hang'd, &c.</i>
1721	Tranter	<i>Murder of Capt. Lutterel</i>	<i>Manlaughter</i>
1586	Travers	<i>High Treason</i>	<i>Hang'd, &c.</i>
1388	Tresilian (<i>L. C. J.</i>)	<i>High Treason</i>	<i>Hang'd, &c.</i>

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manslaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Prefficks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manslaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Tresilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- } maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Man slaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Prefficks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Man slaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1626	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Ruffel	A Romish Priest	Repriev'd
1683	Ruffel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Tresilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Man slaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Man slaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	<i>A Riot</i>	<i>Fin'd</i>
1709	Sacheverell (Dr.)	<i>H. Misdemeanour</i>	<i>Silenc'd for 3 Years</i>
1586	Salisbury	<i>High Treason</i>	<i>Hang'd, &c.</i>
	Savage	<i>High Treason</i>	<i>Hang'd, &c.</i>
	Scots (<i>Queen</i>)	<i>A Conspiracy agt. Q. Eliz.</i>	<i>Beheaded</i>
1660	Scot	<i>A Regicide</i>	<i>Hang'd, &c.</i>
1660	Scroop	<i>A Regicide</i>	<i>Hang'd, &c.</i>
1677	Shaftesbury (<i>Earl</i>)	<i>Habeas Corpus</i>	
1681	<i>The same</i>	<i>High Treason</i>	<i>Ignoramus</i>
1662	Sellers	<i>High Treason</i>	<i>Repriev'd</i>
1632	Sherfield	<i>A Misdemeanour</i>	<i>Fin'd</i>
1683	Shute, and others	<i>A Riot</i>	<i>Fin'd</i>
1683	Sidney (<i>Col.</i>)	<i>High Treason</i>	<i>Beheaded</i>
1658	Slingsby (<i>Sir Henry</i>)	<i>High Treason</i>	<i>Beheaded</i>
1660	Smith (<i>Henry</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1679	Smith (<i>Francis</i>)	<i>A Libel</i>	<i>Fin'd</i>
1701	Somers (<i>Lord</i>)	<i>H. Misdemeanours</i>	<i>Acquitted</i>
1616	Somerfet (<i>Earl</i>)	<i>Murder of Sir T. Overb.</i>	<i>Pardon'd</i>
1616	Somerfet (<i>Countess</i>)	<i>Murder of Sir T. Overb.</i>	<i>Pardon'd</i>
1600	Southampton (<i>Earl</i>)	<i>High Treason</i>	<i>Repriev'd</i>
1633	Sparkes	<i>A Libel</i>	<i>Censur'd</i>
1683	Speke	<i>A Misdemeanour</i>	<i>Fin'd</i>
1608	Sprot	<i>High Treason</i>	<i>Hang'd</i>
1702	Spurr	<i>A forcible Marriage</i>	<i>Acquitted</i>
1687	Standfield	<i>Parricide</i>	<i>Hang'd, &c.</i>
1681	Stapleton (<i>Sir Miles</i>)	<i>High Treason</i>	<i>Acquitted</i>
1679	Starkey	<i>A Romish Priest</i>	<i>Repriev'd</i>
1680	Stafford (<i>Earl</i>)	<i>High Treason</i>	<i>Beheaded</i>
1678	Stayley	<i>High Treason</i>	<i>Hang'd, &c.</i>
1681	Sterne	<i>Murder of Mr. Thynn</i>	<i>Hang'd</i>
1708	Stirling, and others	<i>High Treason</i>	<i>Acquitted</i>
1640	Strafford (<i>Earl</i>)	<i>High Treason</i>	<i>Beheaded</i>
1653	Streater (<i>Capt.</i>)	<i>Habeas Corpus</i>	<i>Discharg'd</i>
1662	Stubbs	<i>High Treason</i>	<i>Hang'd, &c.</i>
1388	Suffolk (<i>Earl</i>)	<i>H. Treason and</i> <i>H. Misdemeanours</i>	<i>Escap'd</i>
1702	Swensden	<i>A forcible Marriage</i>	<i>Hang'd</i>
	T.		
1679	Tasborough	<i>Subornation of Perjury</i>	<i>Fin'd</i>
1660	Temple (<i>James</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1660	Temple (<i>Peter</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1682	Thompson	<i>Libels</i>	<i>Pillory'd and fin'd</i>
1407	Thorpe	<i>Heresy</i>	<i>Imprison'd</i>
1554	Throckmorton	<i>High Treason</i>	<i>Acquitted</i>
	<i>His Jury</i>		<i>Fin'd</i>
1680	Thwing	<i>High Treason</i>	<i>Hang'd, &c.</i>
1586	Tilney	<i>High Treason</i>	<i>Hang'd, &c.</i>
1586	Titchburne	<i>High Treason</i>	<i>Hang'd, &c.</i>
1660	Titchburne (<i>Robt.</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1662	Tonge	<i>High Treason</i>	<i>Hang'd, &c.</i>
1721	Tranter	<i>Murder of Capt. Lutterel</i>	<i>Manlaughter</i>
1586	Travers	<i>High Treason</i>	<i>Hang'd, &c.</i>
1388	Trefilian (<i>L. C. J.</i>)	<i>High Treason</i>	<i>Hang'd, &c.</i>

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Presticks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerset (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerset (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerfet (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerfet (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, &c.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, &c.
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, &c.
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut off, and imprison'd
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and imprison'd
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerset (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerset (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Trefilian (L. C. J.)	High Treason	Hang'd, &c.

Ed 2880

STATE TRIALS

AND

PROCEEDINGS

UPON

High Treason,

AND OTHER

Crimes and Misdemeanors;

FROM

The Reign of King RICHARD II.

TO

The End of the Reign of King GEORGE I.

WITH

An Alphabetical TABLE of the Names of the Persons tried or proceeded against; the Crimes for which they were tried, and the Punishments of such as were convicted.

The SEVENTH VOLUME.

LONDON: Printed for THO. WOTTON, at the *Queens-head* and *Three Daggers* over-against St. *Dunstan's Church* in *Fleet-street*; THO. OSBORNE in *Grays-Inn*; and J. SHUCKBURGH, at the *Sun* next the *Inner Temple Gate* in *Fleet-street*. MDCCXXXI.

STATE TRIALS

AND

PROCEEDINGS

UPON

High Treason

AND OTHER

Crimes and Misdemeanors;

FROM

The Reign of King Richard II.

TO

The End of the Reign of King George I.

WITH

An Appendix Table of the Names of the
Persons who are proceeded against; the Crimes
for which they were tried, and the
names of those who were convicted.

THE SEVENTH VOLUME.

Bayerische
Staatsbibliothek
München

A N Alphabetical T A B L E

O F T H E

NAMES of the Persons tried or proceeded against,
the *Crimes* for which they were tried, and the *Pu-*
nishments of such as were convicted in the Six Vo-
lumes in Folio.

Year.	Names.	Crimes.	Punishments.
A.			
1586	Abington	High Treason	Hang'd
1679	Anderson	A Romish Priest	Repriev'd
1668	Appletree	High Treason	Pardon'd
1661	Argyle (<i>Marquiss</i>)	High Treason	Beheaded
1681	Argyle (<i>Earl</i>)	High Treason	Beheaded
1684	Armstrong (<i>Sir Tho.</i>)	High Treason	Hang'd, &c.
1589	Arundel (<i>Earl</i>)	High Treason	Died in Prison
1690	Ashton	High Treason	Hang'd
1678	Atkins (<i>Samuel</i>)	Murder of Sir E. B. G.	Acquitted
1679	Atkins (<i>William</i>)	Romish Priest	Guilty
1723	Atterbury (<i>Bishop</i>)	A Treasonable Conspiracy	Banish'd
1631	Audley (<i>Lord</i>)	A Rape and Sodomy	Beheaded
1660	Axtel	A Regicide	Hang'd, &c.
B.			
1586	Babington	High Treason	Hang'd, &c.
1620	Bacon (<i>Lord</i>)	Bribery and Corruption	Fin'd and imprison'd
1684	Baillie	High Treason	Hang'd, &c.
1586	Ballard	High Treason	Hang'd, &c.
1634	Balmerino (<i>Lord</i>)	A Treasonable Libel	Pardon'd
1683	Barnardiston (<i>Sir Sam.</i>)	A Misdemeanour	Fin'd
1586	Barnewell	High Treason	Hang'd, &c.
1637	Bastwick	A Libel	Pillory'd, Ears cut off, and imprison'd
1685	Bateman	High Treason	Hang'd, &c.
1605	Bates	Gunpowder Plot	Hang'd, &c.
1701	Bayard (<i>Col.</i>)	High Treason	Repriev'd
1702	Baynton	A forcible Marriage	Repriev'd
1668	Beadle	High Treason	Acquitted
1668	Beaflly	High Treason	Hang'd, &c.
1586	Bellamy	High Treason	Hang'd, &c.
1678	Berry	Murder of Sir E. B. G.	Hang'd
1681	Bethel	Affault and Battery	Fin'd
1688	Bishops (<i>seven</i>)	A Libel	Acquitted
1683	Blague	High Treason	Acquitted
1600	Blunt (<i>Sir Christopher</i>)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1662	Bolton	<i>Refusing to take the Oaths</i>	<i>Imprison'd</i>
1718	Bonnet (Maj.) and others	<i>Piracy</i>	<i>Hang'd</i>
1681	Borosky	<i>Murder of Mr. Thynn</i>	<i>Hang'd</i>
1567	Bothwell (Earl)	<i>Murder of King of Scots</i>	<i>Acquitted</i>
1703	Bouchier	<i>High Treason</i>	<i>Repriev'd</i>
1683	Braddon	<i>A Misdemeanour</i>	<i>Fin'd</i>
1388	Brambre (May. of Lon.)	<i>High Treason</i>	<i>Hang'd, &c.</i>
1663	Brewster	<i>A Libel</i>	<i>Pillory'd fin'd, and } imprison'd }</i>
1679	Brommich	<i>A Romish Priest</i>	<i>Guilty</i>
1663	Brooks	<i>A Libel</i>	<i>Pillory'd, fin'd, and } imprison'd }</i>
1631	Brodway	<i>A Rape and Sodomy</i>	<i>Hang'd</i>
1633	Buckner	<i>A Libel</i>	<i>Censur'd</i>
1637	Burton	<i>A Libel</i>	<i>Pillory'd, Ears cut } off, and imprison'd }</i>
1681	Busby	<i>A Romish Priest</i>	<i>Repriev'd</i>
1699	Butler	<i>Forgery</i>	<i>Fin'd</i>
C.			
1687	Cambridge (University)	<i>A Contempt</i>	<i>Vice Chanc. depriev'd</i>
1680	Carr	<i>A Libel</i>	<i>Guilty</i>
1660	Carew	<i>A Regicide</i>	<i>Hang'd, &c.</i>
1715	Carnwarth (Earl)	<i>High Treason</i>	<i>Pardon'd</i>
1688	Cavenagh and others	<i>Cow-stealing</i>	<i>Hang'd</i>
1680	Cellier	<i>High Treason</i>	<i>Acquitted</i>
1680	The same	<i>A Libel</i>	<i>Pillory'd and fin'd</i>
1648	Charles (King)	<i>High Treason</i>	<i>Beheaded</i>
1695	Charnock (Robert)	<i>High Treason</i>	<i>Hang'd, &c.</i>
1586	Charnock (John)	<i>High Treason</i>	<i>Hang'd, &c.</i>
1663	Clarendon (Earl)	<i>H. Treason and H. Crimes</i>	<i>Banish'd</i>
1660	Clement	<i>A Regicide</i>	<i>Hang'd, &c.</i>
1721	Coke (Arundel)	<i>Slitting Mr Crispe's Nose</i>	<i>Hang'd</i>
1692	Cole	<i>Murder of Dr. Clench</i>	<i>Acquitted</i>
1678	Coleman	<i>High Treason</i>	<i>Hang'd, &c.</i>
1681	College	<i>High Treason</i>	<i>Hang'd, &c.</i>
1660	Cook (John)	<i>A Regicide</i>	<i>Hang'd, &c.</i>
1696	Cook (Peter)	<i>High Treason</i>	<i>Pardon'd</i>
1681	Conningsmark (Count)	<i>Murder of Mr. Thynn</i>	<i>Acquitted</i>
1679	Corker	<i>High Treason</i>	<i>Acquitted</i>
1679	The same	<i>A Romish Priest</i>	<i>Repriev'd</i>
1678	Cornwallis (Lord)	<i>Murder of Clerk</i>	<i>Acquitted</i>
1683	Cornish and others	<i>A Riot</i>	<i>Fin'd</i>
1685	The same	<i>High Treason</i>	<i>Hang'd, &c.</i>
1668	Cotton	<i>High Treason</i>	<i>Hang'd, &c.</i>
1699	Cowper and others	<i>Murder of S. Stout</i>	<i>Acquitted</i>
1696	Cranburne	<i>High Treason</i>	<i>Hang'd, &c.</i>
1662	Croke	<i>Refusing to take the Oaths</i>	<i>Imprison'd</i>
1600	Cuffe	<i>High Treason</i>	<i>Hang'd, &c.</i>
1679	Curtis	<i>A Libel</i>	<i>Guilty</i>
D.			
1678	Danby (Earl)	<i>High Treason</i>	<i>Pardon'd</i>
1600	Davers (Sir Charles)	<i>High Treason</i>	<i>Beheaded</i>
1600	Davis	<i>High Treason</i>	<i>Hang'd, &c.</i>

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1696	Dawson <i>and others</i>	Piracy	Hang'd
1685	Delamere (<i>Lord</i>)	High Treason	Acquitted
1715	Derwentwater (<i>Earl</i>)	High Treason	Beheaded
1605	Digby (<i>Sir Everard</i>)	Gunpowder Plot	Hang'd, &c.
1586	Donn	High Treason	Hang'd, &c.
1663	Dover	A Libel	Pillory'd, fin'd, and imprison'd
1660	Downes	A Regicide	Repriev'd
E.			
1668	Earles	High Treason	Acquitted
1690	Elliot	High Treason	Not tried
1615	Elvis (<i>Sir Jervis</i>)	Murder of Sir T. Overb.	Hang'd
1600	Essex (<i>Earl</i>)	High Treason	Beheaded
1613	Essex (<i>E. and Countess</i>)		Divorc'd
F.			
1668	Farrel	High Treason	Acquitted
1682	Farewell	Libels	Pillory'd and fin'd
1605	Fawkes	Gunpowder Plot	Hang'd, &c.
1679	Fenwick	High Treason	Hang'd, &c.
1696	Fenwick (<i>Sir John</i>)	High Treason	Beheaded
1685	Fernley	High Treason	Repriev'd
1706	Fielding	Bigamy	Pardon'd
1707	<i>The same</i>	Marriage with the Dutch. of Cleveland	annull'd
1643	Fiennes (<i>Col.</i>)	Cowardice	Pardon'd
1681	Fitz-Harris	High Treason	Hang'd, &c.
1631	Fitz-Patrick	A Rape and Sodomy	Hang'd
1660	Fleetwood	A Regicide	Repriev'd
1668	Ford	High Treason	Acquitted
1654	Fox	High Treason	Pardon'd
1716	Francia	High Treason	Acquitted
1615	Franklin	Murder of Sir T. Overb.	Hang'd
1695	Friend (<i>Sir John</i>)	High Treason	Hang'd, &c.
1702	Fuller	An Imposter	Pillory'd, &c.
G.			
1586	Gage	High Treason	Hang'd, &c.
1660	Garland	A Regicide	Repriev'd
1606	Garnet	Gunpowder Plot	Hang'd, &c.
1679	Gascoigne (<i>Sir Tho.</i>)	High Treason	Acquitted
1679	Gavan	High Treason	Hang'd, &c.
1685	Gaunt	High Treason	Burnt
1654	Gerhard	High Treason	Beheaded
1662	Gibbs	High Treason	Hang'd, &c.
1651	Gibbons	High Treason	Beheaded
1719	Gilbert (<i>C. Baron</i>) &c.	A Contempt.	Imprison'd
1680	Giles	Attempt to murder } Mr. Arnold }	Pillory'd and fin'd
1605	Grant	Gunpowder Plot	Hang'd, &c.
1704	Green (<i>Capt.</i>) and his Crew }	Piracy	Hang'd
1678	Green (<i>Robert</i>)	Murder of Sir E. B. G.	Hang'd
1668	Green (<i>William</i>)	High Treason	Acquitted
1662	Grey	Refusing to take the Oaths	Imprison'd

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1678	Grove	High Treason	Hang'd, &c.
1682	Grey (Lord) and others	A Misdemeanour	No Judgment
H.			
1701	Halifax (Lord)	High Misdemeanours	Acquitted
1660	Hacker	A Regicide	Hang'd, &c.
1637	Hampden (John)	Skip-Money	Judgment against him
1683	Hampden (John)	High Misdemeanours	Fin'd
1685	The same	High Treason	Pardon'd
1648	Hamilton (Duke)	High Treason	Beheaded
1679	Harris	A Libel	Pillory'd, fin'd, and imprison'd
1638	Harrison (Tho.)	Misdemeanour	Fin'd and imprison'd
1660	Harrison (Tho.)	A Regicide	Hang'd, &c.
1692	Harrison (Henry)	Murder of Dr. Clench	Hang'd
1679	Harcourt	High Treason	Hang'd, &c.
1702	Hartwell	A forcible Marriage	Acquitted
1660	Harvey	A Regicide	Repriev'd
1702	Hathaway	An Impostor	Pillory'd, &c.
1701	Haversham (Earl)		Acquitted
1668	Hawkins	Felony	Acquitted
1684	Hayes	High Treason	Acquitted
1660	Heveningham	A Regicide	Repriev'd
1658	Hewet (Dr.)	High Treason	Beheaded
1571	Hickford	High Treason	
1678	Hill	Murder of Sir E. B. G.	Hang'd
1662	Hind	High Treason	Repriev'd
1615	Hollis (Sir John)	Misdemeanour	Fin'd
1684	Holloway	High Treason	Hang'd, &c.
1683	Hone	High Treason	Hang'd, &c.
1660	Hulet	A Regicide	Repriev'd
1701	Hurly	Perjury	Fin'd
I.			
1662	James	High Treason	Hang'd, &c.
1586	Jones (Edward)	High Treason	Hang'd, &c.
1660	Jones (John)	A Regicide	Hang'd, &c.
1388	Ireland (Duke)	High Treason	Escap'd
1678	Ireland	High Treason	Hang'd, &c.
K.			
1664	Keach	A Libel	Pillory'd, fin'd, and imprison'd
1723	Kelly	A Treasonable Conspiracy	Imprison'd
1695	Kendal and Roe	Habeas Corpus	Bail'd
1715	Kenmure (Viscount)	High Treason	Beheaded
1679	Kemish	A Romish Priest	Arrain'd only
1679	Kerne	High Treason	Acquitted
1605	Keys (Robert)	Gunpowder Plot	Hang'd, &c.
1695	Keys (Thomas)	High Treason	Hang'd, &c.
1701	Kidd (Capt.) and others	Murder and Piracy	Hang'd
1695	King	High Treason	Hang'd, &c.
1702	Kirkby and others	Desertion	Shot to death
1696	Knightley	High Treason	Pardon'd
1679	Knox	A Misdemeanour	Fin'd and imprison'd

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
L.			
1679	Lane	<i>A Misdemeanour</i>	<i>Pillory'd, fin'd, and } imprison'd }</i>
1679	Langhorne	<i>High Treason</i>	<i>Hang'd, &c.</i>
1668	Latimer	<i>High Treason</i>	<i>Pardon'd</i>
1643	Laud (<i>Archbishop</i>)	<i>High Treason</i>	<i>Beheaded</i>
1722	Layer	<i>High Treason</i>	<i>Hang'd, &c.</i>
1679	Lewis	<i>High Treason</i>	<i>Hang'd, &c.</i>
1649	Lilburne (<i>Col.</i>)	<i>High Treason</i>	<i>Acquitted</i>
1653	<i>His Jury</i>		
1660	Lilburne (<i>Robert</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1668	Limerick	<i>High Treason</i>	<i>Hang'd, &c.</i>
1704	Lindfay	<i>High Treason</i>	<i>Repriev'd</i>
1685	Lisle (<i>Lady</i>)	<i>High Treason</i>	<i>Beheaded</i>
1686	London (<i>Bishop</i>)	<i>A Contempt</i>	<i>Suspended</i>
1683	London (<i>City</i>)	<i>Quo Warranto</i>	<i>Charter forfeited</i>
1651	Love	<i>High Treason</i>	<i>Beheaded</i>
1696	Lowick	<i>High Treason</i>	<i>Hang'd, &c.</i>
1615	Lumsden	<i>Misdemeanour</i>	<i>Fin'd</i>
1679	Lumsden	<i>A Romish Priest</i>	<i>Repriev'd</i>
M.			
1644	Macguire (<i>Lord</i>)	<i>High Treason</i>	<i>Hang'd, &c.</i>
1725	Macclesfield (<i>Earl</i>)	<i>High Misdemeanours</i>	<i>Fin'd</i>
1687	Magdalen College	<i>A Contempt</i>	<i>Fellows expell'd</i>
1679	Marshal (<i>William</i>)	<i>High Treason</i>	<i>Acquitted</i>
1679	<i>The same</i>	<i>A Romish Priest</i>	<i>Repriev'd</i>
1660	Marten (<i>Harry</i>)	<i>A Regicide</i>	<i>Repriev'd</i>
1670	Mead (<i>Will.</i>)	<i>A Tumult</i>	<i>Acquitted</i>
1600	Merrick (<i>Sir Gilly</i>)	<i>High Treason</i>	<i>Hang'd, &c.</i>
1668	Messenger	<i>High Treason</i>	<i>Hang'd, &c.</i>
1660	Meyne	<i>A Regicide</i>	<i>Repriev'd</i>
1660	Millington	<i>A Regicide</i>	<i>Repriev'd</i>
1677	Mitchel	<i>Attempt to murder the } Archb. of St. Andrews }</i>	<i>Hang'd</i>
1663	Moders (<i>Germ. Princess</i>)	<i>Bigamy</i>	<i>Acquitted</i>
1692	Mohun (<i>Lord</i>)	<i>Murder of Mountford</i>	<i>Acquitted</i>
1699	<i>The same</i>	<i>Murder of Coote</i>	<i>Acquitted</i>
1615	Monson (<i>Sir Tho.</i>)	<i>Murder of Sir T. Overb.</i>	<i>Not tried</i>
1658	Mordaunt	<i>High Treason</i>	<i>Acquitted</i>
1535	More (<i>Lord Chancellor</i>)	<i>High Treason</i>	<i>Beheaded</i>
N.			
1715	Nairn (<i>Lord</i>)	<i>High Treason</i>	<i>Pardon'd</i>
1656	Naylor	<i>Blasphemy</i>	<i>Whipt, Pillory'd, } Branded, &c. }</i>
1388	Nevil (<i>Archb. of York</i>)	<i>High Treason</i>	<i>Escap'd</i>
1715	Nithisdale (<i>Earl</i>)	<i>High Treason</i>	<i>Escap'd</i>
1571	Norfolk (<i>Duke</i>)	<i>High Treason</i>	<i>Beheaded</i>
1699	Norfolk (<i>D. and Dutch.</i>)	<i>Adultery</i>	<i>Divorc'd</i>
O.			
1413	Oldcastle (<i>Ld. Cobham</i>)	<i>Heresy</i>	<i>Hang'd and burnt</i>
1684	Oates	<i>Scand' Magn'</i>	<i>Damages 100,000 l.</i>

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1685	<i>The same</i>	Perjury	Pillory'd, whipt, } fin'd, &c. }
1701	Oxford (Earl)	High Misdemeanours	Acquitted
1717	Oxford (Earl)	High Treason, &c.	Acquitted
P.			
1680	Palmer (Earl Castle- maine)	High Treason	Acquitted
1689	<i>The same</i>	High Treason	Bail'd
1682	Pain	Libels	Fin'd
1584	Parry	High Treason	Hang'd, &c.
1679	Parris	A Romish Priest	Repriev'd
1678	Pembroke (Earl)	Murder of Cony	Manlaughter
1670	Penn (William)	A Tumult	Acquitted
1660	Pennington	A Regicide	Repriev'd
1655	Penruddock (Col.)	High Treason	Beheaded
1695	Perkins (Sir William)	High Treason	Hang'd, &c.
1592	Perrot (Sir John)	High Treason	Died in Prison
1660	Peters (Hugh)	A Regicide	Hang'd, &c.
1678	Pickering	High Treason	Hang'd, &c.
1683	Pilkington and others	A Riot	Fin'd
1662	Phillips	High Treason	Hang'd, &c.
1681	Plunket	High Treason	Hang'd, &c.
1723	Plunket (John)	A Treasonable Conspiracy	Imprison'd
1654	Pordage (Dr.)	Insufficiency	Ejected
1701	Portland (Earl)	H. Misdemeanours	Acquitted
1660	Potter	A Regicide	Repriev'd
1680	Pressicks	High Treason	Acquitted
1690	Preston (Lord)	High Treason	Pardon'd
1688	Price (John) and others	High Treason	Not try'd
1679	Price (Anne)	Subornation of Perjury	Fin'd
1684	Pritchard and Papillon	A false Arrest	Guilty
1633	Prynn	A Libel	Fin'd, Mutilated, } &c. }
1637	<i>The same</i>	A Libel	Pillory'd, Ears cut } off, and imprison'd }
R.			
1603	Raleigh (Sir Walter)	High Treason	Beheaded
1679	Reading	A Misdemeanour	Pillory'd, fin'd, and } imprison'd }
1721	Reason	Murder of Capt. Lutterell	Manlaughter
1668	Richardson	High Treason	Acquitted
1685	Ring	High Treason	Repriev'd
1660	Roe (Owen)	A Regicide	Repriev'd
1605	Rookwood (Ambrose)	Gunpowder Plot	Hang'd, &c.
1696	Rookwood (Ambrose)	High Treason	Hang'd, &c.
1684	Rosewell	High Treason	Pardon'd
1683	Rouse	High Treason	Hang'd, &c.
1679	Rumley	High Treason	Acquitted
1679	Russel	A Romish Priest	Repriev'd
1683	Russel (Lord)	High Treason	Beheaded

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
	S.		
1684	Sacheverell (Wil.) &c.	A Riot	Fin'd
1709	Sacheverell (Dr.)	H. Misdemeanour	Silenc'd for 3 Years
1586	Salisbury	High Treason	Hang'd, &c.
	Savage	High Treason	Hang'd, &c.
	Scots (Queen)	A Conspiracy agt. Q. Eliz.	Beheaded
1660	Scot	A Regicide	Hang'd, &c.
1660	Scroop	A Regicide	Hang'd, &c.
1677	Shaftesbury (Earl)	Habeas Corpus	
1681	The same	High Treason	Ignoramus
1662	Sellers	High Treason	Repriev'd
1632	Sherfield	A Misdemeanour	Fin'd
1683	Shute, and others	A Riot	Fin'd
1683	Sidney (Col.)	High Treason	Beheaded
1658	Slingsby (Sir Henry)	High Treason	Beheaded
1660	Smith (Henry)	A Regicide	Repriev'd
1679	Smith (Francis)	A Libel	Fin'd
1701	Somers (Lord)	H. Misdemeanours	Acquitted
1616	Somerset (Earl)	Murder of Sir T. Overb.	Pardon'd
1616	Somerset (Countess)	Murder of Sir T. Overb.	Pardon'd
1600	Southampton (Earl)	High Treason	Repriev'd
1633	Sparkes	A Libel	Censur'd
1683	Speke	A Misdemeanour	Fin'd
1608	Sprot	High Treason	Hang'd
1702	Spurr	A forcible Marriage	Acquitted
1687	Standfield	Parricide	Hang'd, &c.
1681	Stapleton (Sir Miles)	High Treason	Acquitted
1679	Starkey	A Romish Priest	Repriev'd
1680	Stafford (Earl)	High Treason	Beheaded
1678	Stayley	High Treason	Hang'd, &c.
1681	Sterne	Murder of Mr. Thynn	Hang'd
1708	Stirling, and others	High Treason	Acquitted
1640	Strafford (Earl)	High Treason	Beheaded
1653	Streater (Capt.)	Habeas Corpus	Discharg'd
1662	Stubbs	High Treason	Hang'd, &c.
1388	Suffolk (Earl)	H. Treason and H. Misdemeanours	Escap'd
1702	Swensden	A forcible Marriage	Hang'd
	T.		
1679	Tasborough	Subornation of Perjury	Fin'd
1660	Temple (James)	A Regicide	Repriev'd
1660	Temple (Peter)	A Regicide	Repriev'd
1682	Thompson	Libels	Pillory'd and fin'd
1407	Thorpe	Heresy	Imprison'd
1554	Throckmorton	High Treason	Acquitted
	His Jury		Fin'd
1680	Thwing	High Treason	Hang'd, &c.
1586	Tilney	High Treason	Hang'd, &c.
1586	Titchburne	High Treason	Hang'd, &c.
1660	Titchburne (Robt.)	A Regicide	Repriev'd
1662	Tonge	High Treason	Hang'd, &c.
1721	Tranter	Murder of Capt. Lutterel	Manlaughter
1586	Travers	High Treason	Hang'd, &c.
1388	Tresilian (L. C. J.)	High Treason	Hang'd, &c.

Table of the Persons tried, their Crimes, &c.

Year.	Names.	Crimes.	Punishments.
1615	Turner (Anne)	Murder of Sir T. Overb.	Hang'd
1663	Turner (Col.) and others	Burglary	Hang'd
1679	Turner (Anthony)	High Treason	Hang'd, &c.
1704	Tutchin	A Libel	No Judgment
1663	Twyn	High Treason	Hang'd, &c.
V.			
1662	Vane (Sir Henry)	High Treason	Beheaded
1696	Vaughan (Capt.)	High Treason	Hang'd, &c.
1590	Udal	Felony	Pardon'd
1654	Vowel	High Treason	Hang'd, &c.
1681	Vratz	Murder of Mr. Thynn	Hang'd
W.			
1660	Waite	A Regicide	Repriev'd
1679	Wakeman (Sir Geo.)	High Treason	Acquitted
1683	Walcot	High Treason	Hang'd, &c.
1660	Waller (Sir Hardrefs)	A Regicide	Repriev'd
1683	Ward (Sir Patience)	Perjury	Fled
1699	Warwick (Earl)	Murder of Coote	Man slaughter
1615	Wentworth (Sir John)	Misdemeanour	Fin'd
1615	Weston	Murder of Sir T. Overb.	Hang'd
1679	Whitebread	High Treason	Hang'd, &c.
1715	Widdrington (Lord)	High Treason	Pardon'd
1668	Wilks	High Treason	Acquitted
1605	Winter (Robert)	Gunpowder Plot	Hang'd, &c.
	Winter (Thomas)	Gunpowder Plot	Hang'd, &c.
1715	Wintoun (Earl)	High Treason	Escap'd
1721	Woodburn	Slitting Mr. Crispe's Nose	Hang'd
1668	Woodward	High Treason	Acquitted

A N

Alphabetical T A B L E

O F T H E

Principal Matters contained in the three
Supplemental Volumes.

N. B. The Numeral Letters denote the Volume;
the Figures the Pages of each.

A.

ARGYLE, Marquiss of; *Proceedings against him in Scotland for High Treason.*
Vol. 7. Page 229

The Charge against him, wherein are enumerated several Acts of Hostility. 230

Charge against the Marquiss for his Outrages against the Lamonds. 236

The Marquiss's Answer. 241

His further Answer. 245

Burnet's Account of the Proceedings against the Marquiss. 247

Remarks on Burnet's Relation. 252

Further Reflections on this Trial. 254

His Speech at his Execution. 255

ASTLIN Joseph. See William Sacheverell.

ATKINS Samuel, *his Trial for the Murder of Sir Edmondbury Godfrey.* Vol. 7. p. 269

His Indictment as Accessary with Green, Berry and Hill. ib.

He pleads not guilty. 270

His Indictment as Principal with Welch and Le Faire. 271

He pleads not guilty. ib.

The Jury sworn and charg'd with both Indictments 272

Sir

An Alphabetical T A B L E.

<i>Sir William Jones, Attorney General, his Speech.</i>	Vol. 7. Page 272
<i>Charles Atkins's Evidence of the Prisoner's expressing some Resentment against Sir Edmondbury Godfrey.</i>	ib.
<i>And of his desiring to speak with one Child, who would afterwards have engaged him in the Murder of a Man.</i>	ib.
<i>Bedlow's Evidence.</i>	273
<i>He owns he had formerly declared that the Prisoner was in the Room where Sir Edmondbury Godfrey's Body lay, and spake to him; but now can't be positive whether it was the Prisoner or not.</i>	ib.
<i>Evidence that the Prisoner disappointed some Persons who expected his Company that Day.</i>	274
<i>The Prisoner proves to the Satisfaction of the Court, that he was at Greenwich at the Time mention'd by Bedlow.</i>	275
<i>He is acquitted.</i>	277

B.

BACON Lord, Proceedings against him in Parliament for Bribery and Corruption.

	Vol. 7. p. 50
<i>Report from the Committee of the House of Commons.</i>	51
<i>Debates in the House of Commons.</i>	53
<i>The Report sent up to the Lords.</i>	54
<i>Proceedings in the House of Lords against Lord Bacon.</i>	56
<i>Lord Bacon's Submission read.</i>	59
<i>The Lords send an Answer thereto.</i>	60
<i>Afterwards he makes a particular Answer to each Head of Complaint.</i>	61
<i>The Commons demand Judgment, which is pronounced by the Lord Chief Justice in his Absence, his Attendance being excus'd on account of Sickness.</i>	68
<i>Reduc'd to great Want.</i>	ib.
<i>His Death and Burial.</i>	69

BARKER

An Alphabetical T A B L E.

BARKER Humphrey.	See William Sacheverell.	
BASTWICK Dr. John,	<i>try'd in the Star-Chamber, with Henry Burton and William Prynne, for several Libels.</i>	Vol. 7. p. 98
Counsel dare not sign their Answers.		99
They not answering, the Charge is taken pro confesso.		100
Mr. Prynne's Speech when call'd to Sentence.		103
Mr. Bastwick's.		104
Mr. Burton's.		105
They receive Sentence.		ibid.
Archbishop Laud's Speech.		ibid.
Their Discourses to the People, and with one another, as they stand in the Pillory.		113
Upon their Petitions to the Parliament, their Sentence is revers'd, and they brought to Town in Triumph.		115
Lord Clarendon's Account of these Men.		ibid.
BELKNAP.	See Brambre.	
BENNET Ralph.	See William Sacheverell.	
BETHEL Slingsby Esq; his Trial for Assault and Battery at an Election.		Vol. 7. p. 277
The Indictment.		ibid.
Mr. Holt opens the Evidence.		278
Evidence of the Assault and Battery.		279
Mr. Thompson's Speech for the Defendant.		280
The Defendants Evidence contradict the King's Witnesses.		281
Mr. Thompson sums up for the Defendant.		282
Mr. Holt for the King.		ibid.
The Defendant convicted.		283
He is fin'd five Marks.		ibid.
BLUNT, Sir Christopher, try'd with Sir Charles Davers, Sir John Davis, Sir Gilley Merricke, and Henry Cuffe, for High Treason in the Earl of Essex's Plot, 1600.		Vol. 7. p. 32
They plead Not Guilty, but upon their Trial confess the Facts.		ibid.
Sir Gilley Merricke, and Mr. Cuffe executed at Tyburn, and their Behaviour.		34
Sir Christopher Blunt and Sir Charles Davers beheaded on Tower-Hill.		36
		Sir

An Alphabetical TABLE.

Sir Christopher Blunt's Speech at his Execution.

Vol. 7. Page 36

BOLTON, John. See John Crook.

BONNET, Major Stede. *The Trial of him and thirty-three others, for Piracy in South Carolina, 1718.*

Vol. 8. p. 337

Nicholas Trott Esq; *Judge of the Vice-Admiralty, his Charge to the Grand Inquest.* ibid.

The Indictment for taking the Francis, Peter Mainwaring Commander. 338

Richard Allen Esq; *Attorney General opens the Indictment.* 339

Evidence for the King. 342

The Prisoners Defence. 345

The Prisoners convicted. 348

Condemn'd and executed. 350

BRAMBRE Nicholas, *Proceedings in Parliament against him, the Archbishop of York, the Duke of Ireland, the Earl of Suffolk, and Lord Chief Justice Trefilian, for High Treason.*

Vol. 7. p. 1

Articles against them. 2

Brambre desires Trial by Combat, which is refus'd. 19

He is condemn'd and executed. 22

Belknap, Holt, Fulthorp, W. Burleigh, Carey and Lockton tried. ibid.

Their Lives are sav'd, but transported. 23

Blake and Huske condemn'd and executed. ibid.

Trefilian takes Lodgings at Westminster in Disguise. 19

Is drawn to Execution. 21

Bishop of Chichester tried, but his Judgment respited. 24

Simon de Burleigh, Beauchamp, Baroverse and Salisbury tried and executed. ibid.

BURTON Henry, *his Trial for several Libels. See Bastwicke.*

An Alphabetical TABLE.

C.

CARNWARTH, Robert *Earl of*. See Derwentwater.

CHALLENGE.

The Prisoner oblig'd to declare whether he will accept or challenge a Juryman before the King's Counsel take their Exceptions. Vol. 8.

Page 432

CHARNEL Nathaniel. See William Sacheverell.

COKE Arundel *Esq*; his Trial at the Assizes for the County of Suffolk, with John Woodburne, for disfiguring Edward Cripse *Esq*; 1721. See Woodburne John.

COMMITMENT.

Whether a Commitment to the Custody of a Messenger be legal. See Kendal.

COVENTRY-Act, two tried and convicted on it. Vol. 8. p. 387

COWARDICE. Cases of Cowardice. Vol. 7. p. 194

CROOK John, try'd at the Old Bailey, with Isaac Grey and John Bolton, Quakers, for refusing to take the Oaths of Allegiance and Supremacy. Vol. 7. p. 260

He is tender'd the Oaths the first Day of the Sessions. 261

He complains of his long Imprisonment, and will give no other Answer. 262

He wrangles with the Court, and refuses to plead to his Indictment. 264

He pleads not Guilty. 266

Isaac Grey and John Bolton being tender'd the Oaths, and refusing to swear, are also indicted. ib.

They plead not Guilty. ib.

After making a great Noise and Clamour in the Court, they are found Guilty. 268

They receive Sentence of Præmunire. ib.

CUFFE Henry, his Trial. See Sir Christopher Blunt.

D.

An Alphabetical TABLE.

D.

D AVERS Sir Charles, and DAVIS Sir John, <i>their Trials. See Sir Christopher Blunt.</i>	
DERWENTWATER, Earl of; <i>Proceedings on an Impeachment of High Treason against him, Lord Widdrington, Earl of Nithisdale, Earl of Carnwath, Viscount Kenmure, and Lord Nairne, 1715.</i>	Vol. 8. p. 161
<i>Declaration of the Bishops against the Rebellion.</i>	163
<i>Mr. Lechmere's Speech in the House of Commons upon his Motion for the Impeachment.</i>	167
<i>The King's Commission, appointing Earl Cow- per Lord High Steward.</i>	174
<i>The Articles read.</i>	175
<i>Earl of Derwentwater's Answer.</i>	182
<i>Lord Widdrington's Answer.</i>	185
<i>Earl of Nithisdale's Answer.</i>	188
<i>Lord Nairne's Petition.</i>	191
<i>Earl of Derwentwater's Speech.</i>	193
<i>Lord Widdrington's Speech.</i>	194
<i>Earl of Nithisdale's Speech.</i>	195
<i>Earl of Carnwath's Speech.</i>	196
<i>Lord Kenmure's Speech.</i>	197
<i>Lord Nairne's Speech.</i>	ibid.
<i>Lord High Steward's Speech before Judgment.</i>	198
<i>Sentence past upon them, as in Cases of High Treason.</i>	204
<i>Earl of Derwentwater's Dying Speech.</i>	205
<i>He is beheaded with the Lord Kenmure.</i>	207

E.

EVIDENCE.

<i>If an Examination in Writing be taken by a Justice of Peace, no Evidence can be given of what past at that Examination, unless the Writing be produc'd.</i>	Vol. 8. p. 374
<i>The Confession of a Prisoner can only affect him- self, and not any Person join'd with him in the Accusation.</i>	397

An Alphabetical TABLE.

F.

F IENNES, Colonel Nathanael, his Trial before a Council of War for Cowardice, Dec. 14. 1643.	Vol. 7. Page 122
William Prynne and Clement Walker his Pro- secutors.	ib.
They insist strenuously, that the Trial may be publick and open.	ib.
Which is over-rul'd after long Debate.	124
Ten Articles exhibited against him, charging him with Cowardly surrendring the City of Bristol.	125
His Answer.	128
The Hearing, and Evidence.	136 & seq.
The Defendant is condemn'd to die, but par- don'd afterwards.	192
Cases which were cited in the Trial.	194
FOX Somerset, his Trial before a High Court of Justice, for High Treason against Oliver Cromwell, then Lord Protector, 6 Car. II.	Vol. 7. p. 216
Fox pleads Guilty.	217
Attorney General Prideaux opens the Evidence.	ib.
Mr. Vowell desires to be try'd by a Jury, but is refus'd.	ib.
John Wiseman's Evidence, that there was a Design to assassinate the Protector as he went to Hampton-Court, and that Gerhard and Vowell were privy to it.	220
Edward Hudson gives a soft Evidence, upon which his Examination is read against the Prisoners, tho' the Witness denied in Court some things he then confess'd.	221
Charles Gerhard's Evidence against his Bro- ther.	223
Other Witnesses to the Design in general.	225
The Prisoners Defence.	ib.
Are condemn'd.	226
Fox repriev'd, and the other two executed.	ib.
Echard's Account of these Proceedings.	227
Vo L. VII.	FRAN-

An Alphabetical TABLE.

FRANCIA Francis, *his Trial for High Treason at the Old Baily, 1716.* 3 George I. Vol. 8.

p. 264

G.

GERHARD John. See Somerset Fox.

GILBERT Jefferey, *Lord Chief Baron of the Exchequer in Ireland; Proceedings against him and John Pocklington Esq; and Sir John St. Leger, two of the Barons of that Court, in the House of Lords in Ireland, for a Contempt of that House, 1719.* Vol. 8. p. 351

The High Sheriff of Kildare's Petition to the House of Lords, complaining that he had been fin'd in the Exchequer for obeying the Lords Order. ib.

Report of the Committee. 353

Orders of the Lords in England, relating to the Cause. 354 & seq.

The Lords censure the Barons. 362

And commit them into Custody. ibid.

Ireland depends on Great Britain. 363

GREAVES John. See William Sacheverell.

GREAVES William. See ib.

GREEN Robert. See ib.

GREGORY George Esq; See Will. Sacheverell.

GREY Isaac. See John Crook.

H.

HAMPDEN John Esq; *The Trial between the King and him, in the Case of Ship-money.*

Vol. 7. p. 116

HAYES Joseph, *his Trial for High Treason at the King's Bench Bar at Westminster, 1684.*

Vol. 7. p. 437

His Indictment for corresponding with Sir Thomas Armstrong, an Out-law for High Treason. 438

Evidence against him, that a Bill drawn by him for 161 l. 15 s. was found about Sir Thomas Armstrong. 439

His

An Alphabetical T A B L E.

His Defense.

Vol. 7. Page 442

He is acquitted.

445

HOE John. See William Sacheverell.

HURLY Patrick, *his Trial at the King's Bench in Ireland for Perjury, and a Conspiracy to cheat the Popish Inhabitants of the County of Clare, 1701.*

Vol. 8. p. 85

His Indictment for swearing he was robb'd to a considerable Value, when in Truth he was not.

ib.

General Evidence.

86 & seq.

Mr. Justice Coote's Charge to the Jury.

94

The Prisoner found guilty.

95

His Sentence.

ibid.

HUTCHINSON Charles, Esq; See William Sacheverell.

I.

IMPEACHMENT.

A Resolution of the House of Lords, that in an Impeachment for High Treason, and other High Crimes and Misdemeanours, Judgment shall be given on the Articles of Treason, before they proceed on the Articles for High Crimes and Misdemeanours.

Vol. 8. p. 328

The not charging a particular Day in an Impeachment for High Treason not sufficient to quash it.

261

INDICTMENT.

Tho' the Prisoner by the Act to regulate Trials for High Treason, has a Right to a Copy of his Indictment, he cannot demand to inspect the rest of the Record, or to have it read to him.

Vol. 8. p. 518

JUDGMENT.

Judgment pronounc'd on the Lord Bacon by the House of Lords in his Absence, upon his Representation that he was sick, and not able to attend.

Vol. 7. p. 68

JURORS and JURY.

Twenty-four only return'd upon a Panel to try a Case of High Treason.

Vol. 7. p. 28

The

An Alphabetical TABLE.

The Panel call'd over in presence of the Prisoner before they are brought to the Book. Vol. 8.

Page 432

Two Persons challeng'd for Cause. 433

K.

KELLY. See Rochester.

KENDALL Thomas, and Richard Roe, *Proceedings in the King's Bench on a Habeas Corpus upon a Commitment for High Treason,* 1695. Vol. 8. p. 77

The Warrant of Commitment for being assisting to the Escape of Sir James Montgomery out of the Custody of a Messenger. ib.

Sir Bartholomew Shower moves for Bail. ib.

Holds that a Commitment by a Secretary of State is illegal, and was never practis'd in England till 1678. 79

That a Messenger is not empower'd by Law to detain a Man in Custody. 79

Sir Bartholomew Shower's second Argument. 81

The Opinion of the Court. 83

KENMURE William, Lord Viscount. See Derwentwater.

L.

LAYER Christopher, Esq; *his Trial at the King's Bench Bar for High Treason,* 1722. Vol. 8. p. 409

The Indictment for conspiring the Death of the King, and to raise a Rebellion in the County of Essex. ib.

His Counsel move that his Fetters be taken off during his Arraignment, and alledge Cranburne's Case. 412, 413

Which is refus'd by the Court ibid.

Objections that the Indictment is false Latin. 415

King's Counsel answer the Objections. 416

Prisoners Counsel Reply. 418

All

An Alphabetical T A B L E.

<i>All over-rul'd.</i>	Vol. 8. Page 420
<i>His plea of Misnomer in Abatement.</i>	422
<i>Mr. Attorney General demurs to it.</i>	423
<i>The Prisoner's Counsel pray Time to consider of it.</i>	ib.
<i>Which being over-rul'd after a long Debate, he withdraws his Plea, and pleads Not Guilty.</i>	426
<i>The Trial begins.</i>	430
<i>The Panel call'd over in the Presence of the Prisoner.</i>	432
<i>Mr. Serjeant Pengelly opens the Evidence.</i>	434
<i>Is seconded by Sir Robert Raymond, Attorney General.</i>	435
<i>Mr. Lynch call'd.</i>	436
<i>The Prisoner's Counsel move to examine him on a Voyer dire, whether he has a Pardon or other Reward for giving his Evidence.</i>	ib.
<i>Which is denied by the Court, it not being sufficient to take off his Testimony, but only to lessen his Credit.</i>	441
<i>His Evidence that the Prisoner engaged him in the Design of the Insurrection.</i>	ibid.
<i>That he carried him to view Lord Cadogan's House, in order to contrive how to seize him.</i>	446
<i>That he rode with him into Essex, and there read to him a Declaration, exciting the Nation to revolt.</i>	448
<i>Matthew Plunket's Evidence.</i>	452
<i>He swears that the Prisoner acquainted him with the Design, and engag'd him to corrupt the Serjeants and common Soldiers.</i>	454
<i>And gave him Money to encourage him,</i>	455
<i>He is cross-examin'd by the Prisoner and his Counsel.</i>	458
<i>Evidence of two Messengers of the finding Papers in Mrs. Mason's Lodging.</i>	459
<i>Of Mrs. Mason, that they were deliver'd her by the Prisoner.</i>	461
<i>Evidence that the Scheme was written in the Prisoner's Hand.</i>	464
<i>And own'd by him before the Council.</i>	465
a 3	The

An Alphabetical TABLE.

<i>Sir William Jones, Attorney General, his Speech.</i>	Vol. 7. Page 272
<i>Charles Atkins's Evidence of the Prisoner's expressing some Resentment against Sir Edmondbury Godfrey.</i>	ib.
<i>And of his desiring to speak with one Child, who would afterwards have engaged him in the Murder of a Man.</i>	ib.
<i>Bedlow's Evidence.</i>	273
<i>He owns he had formerly declared that the Prisoner was in the Room where Sir Edmondbury Godfrey's Body lay, and spake to him; but now can't be positive whether it was the Prisoner or not.</i>	ib.
<i>Evidence that the Prisoner disappointed some Persons who expected his Company that Day.</i>	274
<i>The Prisoner proves to the Satisfaction of the Court, that he was at Greenwich at the Time mention'd by Bedlow.</i>	275
<i>He is acquitted.</i>	277

B.

BACON Lord, Proceedings against him in Parliament for Bribery and Corruption.

	Vol. 7. p. 50
<i>Report from the Committee of the House of Commons.</i>	51
<i>Debates in the House of Commons.</i>	53
<i>The Report sent up to the Lords.</i>	54
<i>Proceedings in the House of Lords against Lord Bacon.</i>	56
<i>Lord Bacon's Submission read.</i>	59
<i>The Lords send an Answer thereto.</i>	60
<i>Afterwards he makes a particular Answer to each Head of Complaint.</i>	61
<i>The Commons demand Judgment, which is pronounced by the Lord Chief Justice in his Absence, his Attendance being excus'd on account of Sickness.</i>	68
<i>Reduc'd to great Want.</i>	ib.
<i>His Death and Burial.</i>	69

An Alphabetical T A B L E.

BARKER Humphrey.	See William Sacheverell.	
BASTWICK Dr. John,	<i>try'd in the Star-Chamber, with Henry Burton and William Prynne, for several Libels.</i>	Vol. 7. p. 98
	<i>Counsel dare not sign their Answers.</i>	99
	<i>They not answering, the Charge is taken pro confesso.</i>	100
	<i>Mr. Prynne's Speech when call'd to Sentence.</i>	103
	<i>Mr. Bastwick's.</i>	104
	<i>Mr. Burton's.</i>	105
	<i>They receive Sentence.</i>	ibid.
	<i>Archbishop Laud's Speech.</i>	ibid.
	<i>Their Discourses to the People, and with one another, as they stand in the Pillory.</i>	113
	<i>Upon their Petitions to the Parliament, their Sentence is revers'd, and they brought to Town in Triumph.</i>	115
	<i>Lord Clarendon's Account of these Men.</i>	ibid.
BELKNAP.	See Brambre.	
BENNET Ralph.	See William Sacheverell.	
BETHEL Slingsby Esq;	<i>his Trial for Assault and Battery at an Election.</i>	Vol. 7. p. 277
	<i>The Indictment.</i>	ibid.
	<i>Mr. Holt opens the Evidence.</i>	278
	<i>Evidence of the Assault and Battery.</i>	279
	<i>Mr. Thompson's Speech for the Defendant.</i>	280
	<i>The Defendants Evidence contradict the King's Witnesses.</i>	281
	<i>Mr. Thompson sums up for the Defendant.</i>	282
	<i>Mr. Holt for the King.</i>	ibid.
	<i>The Defendant convicted.</i>	283
	<i>He is fin'd five Marks.</i>	ibid.
BLUNT , Sir Christopher,	<i>try'd with Sir Charles Davers, Sir John Davis, Sir Gilley Merricke, and Henry Cuffe, for High Treason in the Earl of Essex's Plot, 1600.</i>	Vol. 7. p. 32
	<i>They plead Not Guilty, but upon their Trial confess the Facts.</i>	ibid.
	<i>Sir Gilley Merricke, and Mr. Cuffe executed at Tyburn, and their Behaviour.</i>	34
	<i>Sir Christopher Blunt and Sir Charles Davers beheaded on Tower-Hill,</i>	36
		Sir

An Alphabetical T A B L E.

Sir Christopher Blunt's Speech at his Execution.

Vol. 7. Page 36

BOLTON, John. See John Crook.

BONNET, Major Stede. *The Trial of him and thirty-three others, for Piracy in South Carolina, 1718.*

Vol. 8. p. 337

Nicholas Trott Esq; *Judge of the Vice-Admiralty, his Charge to the Grand Inquest.* ibid.

The Indictment for taking the Francis, Peter Mainwaring Commander. 338

Richard Allen Esq; *Attorney General opens the Indictment.* 339

Evidence for the King. 342

The Prisoners Defence. 345

The Prisoners convicted. 348

Condemn'd and executed. 350

BRAMBRE Nicholas, *Proceedings in Parliament against him, the Archbishop of York, the Duke of Ireland, the Earl of Suffolk, and Lord Chief Justice Trefilian, for High Treason.*

Vol. 7. p. 1

Articles against them. 2

Brambre desires Trial by Combat, which is refus'd. 19

He is condemn'd and executed. 22

Belknap, Holt, Fulthorp, W. Burleigh, Carey and Lockton tried. ibid.

Their Lives are sav'd, but transported. 23

Blake and Huske condemn'd and executed. ibid.

Trefilian takes Lodgings at Westminster in Disguise. 19

Is drawn to Execution. 21

Bishop of Chichester tried, but his Judgment respited. 24

Simon de Burleigh, Beauchamp, Baroverse and Salisbury tried and executed. ibid.

BURTON Henry, *his Trial for several Libels. See Bastwicke.*

An Alphabetical TABLE.

C.

CARNWARTH, Robert *Earl of.* See Derwentwater.

CHALLENGE.

The Prisoner oblig'd to declare whether he will accept or challenge a Juryman before the King's Counsel take their Exceptions. Vol. 8.

Page 432

CHARNEL Nathaniel. See William Sacheverell.

COKE Arundel *Esq;* his Trial at the Assizes for the County of Suffolk, with John Woodburne, for disfiguring Edward Crippe *Esq;* 1721. See Woodburne John.

COMMITMENT.

Whether a Commitment to the Custody of a Messenger be legal. See Kendal.

COVENTRY-A&, two tried and convicted on it. Vol. 8. p. 387

COWARDICE. Cases of Cowardice. Vol. 7. p. 194

CROOK John, try'd at the Old Bailey, with Isaac Grey and John Bolton, Quakers, for refusing to take the Oaths of Allegiance and Supremacy. Vol. 7. p. 260

He is tender'd the Oaths the first Day of the Sessions. 261

He complains of his long Imprisonment, and will give no other Answer. 262

He wrangles with the Court, and refuses to plead to his Indictment. 264

He pleads not Guilty. 266

Isaac Grey and John Bolton being tender'd the Oaths, and refusing to swear, are also indicted. ib.

They plead not Guilty. ib.

After making a great Noise and Clamour in the Court, they are found Guilty. 268

They receive Sentence of Præmunire. ib.

CUFFE Henry, his Trial. See Sir Christopher Blunt.

D.

An Alphabetical TABLE.

D.

D AVERS Sir Charles, and DAVIS Sir John, <i>their Trials. See Sir Christopher Blunt.</i>	
DERWENTWATER, Earl of; <i>Proceedings on an Impeachment of High Treason against him, Lord Widdrington, Earl of Nithisdale, Earl of Carnwath, Viscount Kenmure, and Lord Nairne, 1715.</i>	Vol. 8. p. 161
<i>Declaration of the Bishops against the Rebellion.</i>	163
<i>Mr. Lechmere's Speech in the House of Commons upon his Motion for the Impeachment.</i>	167
<i>The King's Commission, appointing Earl Cow- per Lord High Steward.</i>	174
<i>The Articles read.</i>	175
<i>Earl of Derwentwater's Answer.</i>	182
<i>Lord Widdrington's Answer.</i>	185
<i>Earl of Nithisdale's Answer.</i>	188
<i>Lord Nairne's Petition.</i>	191
<i>Earl of Derwentwater's Speech.</i>	193
<i>Lord Widdrington's Speech.</i>	194
<i>Earl of Nithisdale's Speech.</i>	195
<i>Earl of Carnwath's Speech.</i>	196
<i>Lord Kenmure's Speech.</i>	197
<i>Lord Nairne's Speech.</i>	ibid.
<i>Lord High Steward's Speech before Judgment.</i>	198
<i>Sentence past upon them, as in Cases of High Treason.</i>	204
<i>Earl of Derwentwater's Dying Speech.</i>	205
<i>He is beheaded with the Lord Kenmure.</i>	207

E.

EVIDENCE.

<i>If an Examination in Writing be taken by a Justice of Peace, no Evidence can be given of what past at that Examination, unless the Writing be produc'd.</i>	Vol. 8. p. 374
<i>The Confession of a Prisoner can only affect him- self, and not any Person join'd with him in the Accusation.</i>	397

An Alphabetical TABLE.

F.

F IENNES, Colonel Nathanael, <i>his Trial before a Council of War for Cowardice</i> , Dec. 14. 1643.	Vol. 7. Page 122
William Prynne and Clement Walker <i>his Prosecutors</i> .	ib.
<i>They insist strenuously, that the Trial may be publick and open.</i>	ib.
<i>Which is over-rul'd after long Debate.</i>	124
<i>Ten Articles exhibited against him, charging him with Cowardly surrendring the City of Bristol.</i>	125
<i>His Answer.</i>	128
<i>The Hearing, and Evidence.</i>	136 & seq.
<i>The Defendant is condemn'd to die, but pardon'd afterwards.</i>	192
<i>Cases which were cited in the Trial.</i>	194
FOX Somerset, <i>his Trial before a High Court of Justice, for High Treason against Oliver Cromwell, then Lord Protector</i> , 6 Car. II.	Vol. 7. p. 216
<i>Fox pleads Guilty.</i>	217
<i>Attorney General Prideaux opens the Evidence.</i>	ib.
<i>Mr. Vowell desires to be try'd by a Jury, but is refus'd.</i>	ib.
<i>John Wiseman's Evidence, that there was a Design to assassinate the Protector as he went to Hampton-Court, and that Gerhard and Vowell were privy to it.</i>	220
<i>Edward Hudson gives a soft Evidence, upon which his Examination is read against the Prisoners, tho' the Witness denied in Court some things he then confess'd.</i>	221
<i>Charles Gerhard's Evidence against his Brother.</i>	223
<i>Other Witnesses to the Design in general.</i>	225
<i>The Prisoners Defence.</i>	ib.
<i>Are condemn'd.</i>	226
<i>Fox repriev'd, and the other two executed.</i>	ib.
<i>Echard's Account of these Proceedings.</i>	227
Vol. VII.	a

FRAN-

An Alphabetical TABLE.

FRANCIA Francis, *his Trial for High Treason at the Old Baily, 1716. 3 George I. Vol. 8.*

p. 264

G.

GERHARD John. *See Somerset Fox.*

GILBERT Jefferey, *Lord Chief Baron of the Exchequer in Ireland; Proceedings against him and John Pocklington Esq; and Sir John St. Leger, two of the Barons of that Court, in the House of Lords in Ireland, for a Contempt of that House, 1719. Vol. 8. p. 351*

The High Sheriff of Kildare's Petition to the House of Lords, complaining that he had been fin'd in the Exchequer for obeying the Lords Order. ib.

Report of the Committee. 353

Orders of the Lords in England, relating to the Cause. 354 & seq.

The Lords censure the Barons. 362

And commit them into Custody. ibid.

Ireland depends on Great Britain. 363

GREAVES John. *See William Sacheverell.*

GREAVES William. *See ib.*

GREEN Robert. *See ib.*

GREGORY George Esq; *See Will. Sacheverell.*

GREY Isaac. *See John Crook.*

H.

HAMPDEN John Esq; *The Trial between the King and him, in the Case of Ship-money. Vol. 7. p. 116*

HAYES Joseph, *his Trial for High Treason at the King's Bench Bar at Westminster, 1684. Vol. 7. p. 437*

His Indictment for corresponding with Sir Thomas Armstrong, an Out-law for High Treason. 438

Evidence against him, that a Bill drawn by him for 161 l. 15 s. was found about Sir Thomas Armstrong. 439

His

An Alphabetical T A B L E.

His Defense.

Vol. 7. Page 442

He is acquitted.

445

HOE John. *See* William Sacheverell.

HURLY Patrick, *his Trial at the King's Bench in Ireland for Perjury, and a Conspiracy to cheat the Popish Inhabitants of the County of Clare, 1701.*

Vol. 8. p. 85

His Indictment for swearing he was robb'd to a considerable Value, when in Truth he was not.

ib.

General Evidence.

86 & seq.

Mr. Justice Coote's Charge to the Jury.

94

The Prisoner found guilty.

95

His Sentence.

ibid.

HUTCHINSON Charles, *Esq;* *See* William Sacheverell.

I.

IMPEACHMENT.

A Resolution of the House of Lords, that in an Impeachment for High Treason, and other High Crimes and Misdemeanours, Judgment shall be given on the Articles of Treason, before they proceed on the Articles for High Crimes and Misdemeanours.

Vol. 8. p. 328

The not charging a particular Day in an Impeachment for High Treason not sufficient to quash it.

261

INDICTMENT.

Tho' the Prisoner by the Act to regulate Trials for High Treason, has a Right to a Copy of his Indictment, he cannot demand to inspect the rest of the Record, or to have it read to him.

Vol. 8. p. 518

JUDGMENT.

Judgment pronounc'd on the Lord Bacon by the House of Lords in his Absence, upon his Representation that he was sick, and not able to attend.

Vol. 7. p. 68

JURORS and JURY.

Twenty-four only return'd upon a Panel to try a Case of High Treason.

Vol. 7. p. 28

The

An Alphabetical T A B L E.

The Panel call'd over in presence of the Prisoner before they are brought to the Book. Vol. 8.

Page 432

Two Persons challeng'd for Cause. 433

K.

KELLY. See Rochester.

KENDALL Thomas, and Richard Roe, *Proceedings in the King's Bench on a Habeas Corpus upon a Commitment for High Treason,* 1695. Vol. 8. p. 77

The Warrant of Commitment for being assisting to the Escape of Sir James Montgomery out of the Custody of a Messenger. ib.

Sir Bartholomew Shower moves for Bail. ib.

Holds that a Commitment by a Secretary of State is illegal, and was never practis'd in England till 1678. 79

That a Messenger is not empower'd by Law to detain a Man in Custody. 79

Sir Bartholomew Shower's second Argument. 81

The Opinion of the Court. 83

KENMURE William, Lord Viscount. See Derwentwater.

L.

LAYER Christopher, Esq; *his Trial at the King's Bench Bar for High Treason,* 1722. Vol. 8. p. 409

The Indictment for conspiring the Death of the King, and to raise a Rebellion in the County of Essex. ib.

His Counsel move that his Fetters be taken off during his Arraignment, and alledge Cranburne's Case. 412, 413

Which is refus'd by the Court ibid.

Objections that the Indictment is false Latin. 415

King's Counsel answer the Objections. 416

Prisoners Counsel Reply. 418

All

An Alphabetical TABLE.

<i>All over-rul'd.</i>	Vol. 8. Page 420
<i>His plea of Misnomer in Abatement.</i>	422
<i>Mr. Attorney General demurs to it.</i>	423
<i>The Prisoner's Counsel pray Time to consider of it.</i>	ib.
<i>Which being over-rul'd after a long Debate, he withdraws his Plea, and pleads Not Guilty.</i>	426
<i>The Trial begins.</i>	430
<i>The Panel call'd over in the Presence of the Prisoner.</i>	432
<i>Mr. Serjeant Pengelly opens the Evidence.</i>	434
<i>Is seconded by Sir Robert Raymond, Attorney General.</i>	435
<i>Mr. Lynch call'd.</i>	436
<i>The Prisoner's Counsel move to examine him on a Voyer dire, whether he has a Pardon or other Reward for giving his Evidence.</i>	ib.
<i>Which is denied by the Court, it not being sufficient to take off his Testimony, but only to lessen his Credit.</i>	441
<i>His Evidence that the Prisoner engaged him in the Design of the Insurrection.</i>	ibid.
<i>That he carried him to view Lord Cadogan's House, in order to contrive how to seize him.</i>	446
<i>That he rode with him into Essex, and there read to him a Declaration, exciting the Nation to revolt.</i>	448
<i>Matthew Plunket's Evidence.</i>	452
<i>He swears that the Prisoner acquainted him with the Design, and engag'd him to corrupt the Serjeants and common Soldiers.</i>	454
<i>And gave him Money to encourage him,</i>	455
<i>He is cross-examin'd by the Prisoner and his Counsel.</i>	458
<i>Evidence of two Messengers of the finding Papers in Mrs. Mason's Lodging.</i>	459
<i>Of Mrs. Mason, that they were deliver'd her by the Prisoner.</i>	461
<i>Evidence that the Scheme was written in the Prisoner's Hand.</i>	464
<i>And own'd by him before the Council.</i>	465
a 3	The

An Alphabetical TABLE.

<i>The Prisoner's Counsel object to its being read.</i>	Vol. 8. Page 466
<i>The Scheme order'd to be read, and read accordingly.</i>	471
<i>Receipts for Money under the Pretender's Hand read.</i>	472
<i>Evidence of his being examin'd before the Lords of the Council.</i>	475
<i>Several other Letters and Papers read.</i>	ibid.
	& seq.
<i>Evidence offer'd to prove the Prisoner's corresponding with the Pretender.</i>	479
<i>Which is objected to by his Counsel, as being a Species of Treason not laid in the Indictment.</i>	ibid.
<i>Held that it may be given to corroborate the Evidence already given, but not to prove a new Overt-Act.</i>	480
<i>Objected for the Prisoner, that the Examination ought to be produc'd, and not parol Evidence given of it.</i>	ib.
<i>Mr. Stanyan gives an Account of what he said before the Council.</i>	481
<i>That the Prisoner own'd he had two Conferences with the Pretender.</i>	483
<i>Evidence of Arms being found in the Prisoner's House.</i>	485
<i>Of his Escaping from the Messenger's Custody.</i>	486
<i>The Prisoner's Defence by his Counsel.</i>	487
<i>The Prisoner's Counsel argue, that the Proof in Essex does not amount to an Overt-Act of Treason.</i>	ib.
<i>Are directed to make all their Defense at once.</i>	491
<i>Mr. Hungerford's Speech for the Prisoner</i>	ib.
<i>Witnesses call'd to impeach Lynch's Credit.</i>	495
<i>Witnesses against Plunket.</i>	499
<i>Against Mason.</i>	502
<i>The Prisoner calls Witnesses to give an Account how the Arms came to be found in his House.</i>	504
	And

An Alphabetical T A B L E.

<i>And to prove that the Scheme was not of his Hand-writing.</i>	Vol. 8. Page 505
<i>He concludes his Defence.</i>	506
<i>Sir Philip York, Solicitor General, his Reply.</i>	507
<i>He maintains the 'Proof of an Overt-Act' in Essex.</i>	508
<i>Witnesses call'd for the King to Mr. Lynch's Credit.</i>	514
<i>Lord Chief Justice Pratt's Directions to the Jury.</i>	516
<i>The Prisoner convicted.</i>	517
<i>He is call'd to Sentence.</i>	ibid.
<i>His Counsel move that the Venire be read.</i>	ibid.
<i>Which is over-rul'd.</i>	518
<i>Objected as an Error, that the Venire was made returnable the 19th, and the Trial was not till the 21st of November.</i>	ibid.
<i>Which is rul'd to be according to the Course of the Court.</i>	519
<i>Objected as a Fault in the Indictment, that the Words of the Declaration were not set forth.</i>	521
<i>Mr. Hungerford reprimanded.</i>	ibid.
<i>Adjudg'd by the Court, that if one Overt-Act holds, the Indictment is good.</i>	ibid.
<i>The Resolution of all the Judges in Dr. Sacheverell's Case, offer'd by the Prisoner's Counsel to maintain their Objection.</i>	ibid.
<i>This Resolution censur'd as erroneous and against Law.</i>	523
<i>And the Prisoner's Objection over-rul'd.</i>	ibid.
<i>The Prisoner receives Sentence.</i>	524
<i>His Execution.</i>	ibid.
LONDON <i>City of, Proceedings against it upon a Quo Warranto in the King's Bench, 1683.</i>	Vol. 7. p. 307
<i>The Information, that for a Month past the Mayor, &c. have without lawful Warrant used certain Liberties and Privileges.</i>	ib.
<i>The Plea of the Mayor, &c. wherein they Plead Prescription and Royal Authority for the Exercise of their Privileges.</i>	308
	Mr.

An Alphabetical TABLE.

Mr. Attorney's Reply, that they did forfeit their Privileges by taking unreasonable Toll in their Markets, and by presenting and publishing a libellous Petition. Vol. 7. Page 309

The City's Rejoinder, justifying both those Acts. ib.

Mr. Attorney's Sur-rejoinder and Demurrer. 311

The City's Rebutter and Joinder in Demurrer. 312

Mr. Solicitor General Finch's Argument for the King. 313

1. *That a Corporation may be forfeited.* 314

2. *That the City of London is in the same Case with other Corporations in this respect.* 315

3. *That an Act of the Common Counsel is a Corporate Act, and may make a Forfeiture of the whole.* 316

4. *That the Offences set forth in the Replication are Forfeitures.* ibid.

Of the Right to take Toll in their Markets. 317

Of the City's Petition. 318

Sir George Treby, Recorder, his Argument for the City. 319

1. *That a Corporation cannot be forfeited.* ib.

2. *That a Quo Warranto should have been brought against the Defendants by name, and not in their corporate Capacity.* 323

3. *He defends their taking Toll in the Markets,* 327

4. *That an unreasonable By-Law is not sufficient to forfeit a Corporation.* ibid.

His Defense as to the Petition. 329

5. *Argues that a Corporation cannot possibly commit a Crime against the Peace.* 331

6. *That an Act of the Common Council is not an Act of the Corporation.* 333

The Chief Justice's Remarks. 334

Sir Robert Sawyer, Attorney General, his Reply. 335

Distinguishes between Seizures and Forfeitures. 41

An Instance of the Franchises of Sandwich being seized

An Alphabetical TABLE.

<i>seized for a notorious Riot committed there.</i>	
	Vol. 7. Page 347
<i>Another of the Town of Cambridge.</i>	ib.
<i>Reasons why an Act of the Common Council is an Act of the Corporation.</i>	348
<i>He justifies the Charge about the Markets.</i>	353
<i>And about the Petition.</i>	355
<i>Mr. Polluxfen's Speech for the City.</i>	358
<i>He insists upon the Impropriety of prosecuting them in their corporate Capacity.</i>	359
<i>He objects to the Pleading as singular and unprecedented.</i>	361
<i>His Defence of the Petition.</i>	365
<i>Denies that it was an Act of the Corporation.</i>	367
<i>He answers three Reasons brought to prove the Charter forfeited.</i>	369
<i>The meaning of the Words seizing and forfeiting stated.</i>	371
<i>Opinion of the Judges.</i>	375
<i>The Judgment of the Court for the King.</i>	ib.
<i>A general View of the whole Matter in Debate.</i>	376

M.

MACCLESFIELD, Thomas, *Earl of, his Trial on an Impeachment for high Crimes and Misdemeanours before the House of Lords,*
1725. Vol. 9. p. 204

<i>The Articles of Impeachment.</i>	ib.
<i>The Earl's Answer.</i>	212
<i>The Replication of the Commons.</i>	222
<i>Sir George Oxenden opens the Charge.</i>	ib.
<i>Sir Clement Wearg opens the Evidence.</i>	229
<i>Sir William Strickland's Speech opens the Evidence upon the 5th, 6th, 7th, 8th and 9th Articles, as to selling Places in Chancery.</i>	233
<i>Mr. Doddington enforces the same, and opens the 9th Article.</i>	238
<i>Serjeant Pengelly proceeds,</i>	241
<i>The Statute read at the Nomination of Sheriffs in the Exchequer.</i>	242

Further

An Alphabetical TABLE.

<i>Further Evidence to support these Articles.</i>	Vol. 9. Page 246
<i>Lord Chancellors ordinary Profit.</i>	249
<i>Matters on Record not to be examin'd Viva Vo-</i> <i>ce.</i>	250
<i>Mr. T. Bennet examin'd to the 9th Article.</i>	253. to the 6th, 272, 320, 372, 391
<i>Mr. Cottingham examin'd.</i>	260, 270, 274, 285, 295, 440, 458, 463, 466, 471
<i>Mr. Kynaston examin'd.</i>	265, 317, 385, 393, 538
<i>Mr. Elde to the 7th Article.</i>	280, 454
<i>Mr. Thurston to the 8th Article.</i>	286, 453
<i>Mr. Thompson's Evidence.</i>	300, 340, 401
<i>Mr. Godfrey.</i>	303
<i>Mr. John Bennet.</i>	306, 394, 441, 537
<i>Mr. Onslow opens the Eleventh Article, about</i> <i>appointing insufficient Men to be Masters.</i>	308
<i>Mr. Palmer's Speech on the 12th Article, for</i> <i>conniving at the Masters paying for their</i> <i>Places out of the Suitors Money.</i>	311
<i>Evidence of a Declaration made by my Lord in</i> <i>Court.</i>	313
<i>Mr. Lightboun examin'd.</i>	315, 380, 393, 538
<i>Mr. Gibbons opens the 13th Article, for conceal-</i> <i>ing Mr. Dormer's Deficiency, and for com-</i> <i>pounding a Debt owing from Mr. Wilson to</i> <i>Mr. Dormer.</i>	331
<i>Mr. Hedges proceeds on the same Articles.</i>	335
<i>Mr. Campbel examin'd.</i>	341
<i>Mr. Paxton.</i>	343, 540
<i>Evidence of Mr. Dormer's Deficiency</i>	344
<i>And of the compounding Wilson's Debt.</i>	ibid.
<i>Sir John Rushout's Speech on the 15th, 16th,</i> <i>and 17th Articles.</i>	353
<i>Mr. Sandy's enforces the same.</i>	356
<i>Mr. Thompson's Speech on the same side.</i>	357
<i>Evidence of the Masters Contribution.</i>	359
<i>Of several Conversations between the Earl and</i> <i>the Masters on this Occasion.</i>	361
<i>Mr. Lockman's Evidence of the Earl's paying</i> <i>him the 1000 l.</i>	372
<i>Mr.</i>	

An Alphabetical TABLE.

<i>Mr. Atwood examin'd.</i>	Vol. 9. Page 374
<i>Mr. Plummer's Speech upon the 18th Article, for permitting and encouraging the Masters to traffick with the Suitors Money.</i>	377
<i>Mr. Cary's Speech supporting the same.</i>	379
<i>Mr. Holford's Evidence.</i>	384
<i>Lord Morpeth open'd the 19th Article, for advising and persuading the Masters to make false Representations of their Circumstances.</i>	386
<i>Mr. Snell enforces the same.</i>	389
<i>Mr. Lovibond examin'd.</i>	396, 439, 538
<i>Mr. Conway.</i>	397
<i>Mr. Sanderfon examin'd.</i>	401
<i>Mr. West Sums up the Evidence.</i>	403
<i>Mr. Robins opens the Earl's Defence.</i>	415
<i>Dr. Sayer proceeds in the Earl's Defence.</i>	422
<i>Mr. Lingard proceeds.</i>	427
<i>Mr. Lewis examin'd.</i>	430
<i>Mr. Oaker examin'd.</i>	433
<i>Mr. Dupper.</i>	ib.
<i>Mr. Tench.</i>	436
<i>Mr. Meller.</i>	437
<i>Mr. Holford examin'd.</i>	441, 452, 455, 471, 537
<i>Sir Thomas Grey examin'd.</i>	442
<i>Mr. Steele examin'd.</i>	443, 450
<i>Mr. Goldsbro.</i>	445
<i>Mr. Walker examin'd.</i>	450
<i>Mr. Rogers examin'd.</i>	452
<i>Mr. Parkhurst examin'd.</i>	456
<i>Mr. Elphinstone.</i>	457, 468
<i>Evidence to Poulter's Substance.</i>	460, 461
<i>Serjeant Probyn on the 17th Article.</i>	469
<i>Mr. Lingard, Com. Serjeant's Defence against the 18th Article.</i>	470
<i>Mr. Robins opens the Defence of the 19th Article.</i>	471
<i>Mr. Robins proceeds to sum up the Defence.</i>	479
<i>Mr. Strange concludes.</i>	480
<i>Witnesses to Mr. Cottingham's Reputation.</i>	472, 3
<i>Account of many Charities done by the Earl.</i>	473, 4, 5
<i>Mr.</i>	

An Alphabetical TABLE.

<i>Mr. Common Serjeant's Observations upon the whole.</i>	Vol. 9. Page 478
<i>Mr. Robins enters on the Defence of 11 & 12 Art.</i>	448
<i>Mr. Strange proceeds on the 13th and 14th Article. p. 454. On the 15th, 16th and 17th Article.</i>	462
<i>The Earl of Macclesfield's own Defence.</i>	484
<i>Mr. Sergeant Pengelly's Reply.</i>	508
<i>Mr. Lutwyche enforces it.</i>	524
<i>The Statute 11 Hen. IV. read.</i>	541
<i>The Earl's Remarks on it.</i>	ibid.
<i>The Earl is convicted.</i>	542
<i>And fin'd 30,000 l.</i>	544
MANSFIELD Richard Esq; <i>See William Sacheverell.</i>	

MESSENGER.

<i>Whether it be lawful to commit State-Prisoners to the Custody of Messengers.</i>	Vol. 8. p. 78
---	---------------

N.

N AIRNE William Lord. <i>See Derwentwater.</i>	
NEVIL , Archbishop of York. <i>See Brambre.</i>	
NITHSDALE , Earl of. <i>See Derwentwater.</i>	
NORFOLK , Duke of, <i>Proceedings in Parliament upon the Bill of Divorce between him and his Dutcheß, 1699.</i>	Vol. 8. Page 1
<i>The Bill of Divorce.</i>	5
<i>The Depositions of Eleanor Vaneß for the Duke.</i>	11
<i>Depositions of Nicholas Hofier.</i>	14
<i>Of William Bailly and others.</i>	19
<i>Depositions of Thomas Hawksworth for the Dutcheß.</i>	23
<i>Depositions of John Peacock and others. 24 & seq.</i>	
<i>The Dutcheß's Case.</i>	2
<i>The Duke's Case.</i>	37
<i>Bishop Cozens's Argument, whether Adultery is a just Cause of Divorce.</i>	42
<i>Sir Thomas Powis's Speech for the Dutcheß.</i>	58
<i>Mr. Dodd's Speech.</i>	64
	Dr.

An Alphabetical T A B L E.

<i>Dr. Pinfold's Speech on the same.</i>	Vol. 8. Page 65
<i>Mr. Serjeant Wright's Speech for the Duke.</i>	67
<i>Mr. Northey on the same side.</i>	70
<i>Dr. Oldish's Speech for the Duke.</i>	71
<i>The Dutchess's Counsel reply.</i>	73
<i>Mr. Northey opens the Evidence.</i>	ibid.
<i>The Dutchess's Counsel desire to read the Depositions taken before the Lords, in order to prove that the Witnesses contradict themselves.</i>	76
<i>Which being refus'd, they decline making any further Defence.</i>	ibid.
<i>The Bill is pass'd.</i>	ibid.
NOTTINGHAM, a Riot at an Election there tried. See William Sacheverell Esq;	
<i>The Case of that Corporation in 1684.</i>	Vol. 7. 423

O.

O XFORD and MORTIMER, Robert Earl of, Proceedings against him on an Impeachment for High Treason and other high Crimes and Misdemeanours, 1717.	Vol. 8. p. 265
<i>The Articles against him read, being sixteen in number.</i>	270
<i>Additional Articles.</i>	285
<i>The Earl's Answer.</i>	292
<i>His Answer to the additional Articles.</i>	311
<i>The Commons Replication.</i>	326
<i>Mr. Hampden opens the Articles.</i>	327
<i>The Lords insist, that Judgment be given on the Articles of High Treason before they proceed upon the Articles of high Crimes and Misdemeanours.</i>	328
<i>The Commons Reasons for proceeding in their own Method.</i>	ibid.
<i>The Lords Reasons for their Resolution.</i>	331
<i>After some Messages the Lords adhere to their Resolutions, and the Commons to theirs.</i>	331
<i>The Commons not appearing, the Lords dismiss the Impeachment, and discharge the Earl.</i>	336

An Alphabetical T A B L E.

P.

PERROT, Sir John, Lord Deputy of Ireland,
try'd at Westminster for High Treason.

Vol. 7. p. 27

Commissioners Names.

ibid.

Indicted, 1. for treasonable Correspondence, 2.
for Disobedience to the Queen's Orders,
3. for harbouring Traitors. 28

Twenty-Four only return'd on the Panel, and
Twelve sworn. ibid.

Several indecent Expressions spoken by him in
Ireland of the Queen given in Evidence,
most of which he denies. ibid.

A treasonable Correspondence sworn against him
by Sir Dennis Oroughan. 30

He is convicted, but his Judgment respited. 31

Being call'd to Judgment, affirms himself to be
innocent. ibid.

Receives Judgment of Death. ibid.

He dies in the Tower. ibid.

PLEAS and PLEADING.

Time refus'd to consider of a Joynder in Demur-
rer. Vol. 8. p. 426

PLUMTRE Henry Esq; See William Sache-
verell.

PLUNKET. See Rochester.

POCKLINGTON John Esq; See Sir Jefferey
Gilbert.

POLE Michael, Earl of Suffolk, Lord Chancel-
lor, impeach'd. Vol. 7. p. 1

His Judgment. 4

Accus'd of Treason, see BRAMBRE.

PRISONERS and IMPRISONMENT.

Whether a Commitment to the Custody of a Mes-
senger be a lawful Imprisonment. Vol. 8.

p. 79

R.

REASON Hugh and Robert Traunter, their
Trial for the Murder of Edward Lutterell
Esq;

An Alphabetical T A B L E.

Esq; at the King's Bench Bar, 1721. Vol. 8.

p. 364

The Indictment.

ibid.

Mr. Serjeant Cheshire's Speech before Evidence.

365

Evidence for the King, that the Deceased was arrested, and kill'd by the Prisoners whilst in their Custody.

367

Evidence of what the Deceased declared after he was wounded.

371

Debates about giving Evidence of what the Deceased said on his Death-Bed, the Examination not being produced.

374

The Judgment of the Court.

375

The Surgeon's Evidence.

376

The Prisoners Defence.

377

Evidence for the Prisoners.

378

Mr. Reeve and Mr. Hungerford, their Reply.

381

Lord Chief Justice Pratt's Directions to the Jury.

383

The Prisoners found guilty of Manslaughter.

386

RECORDS. Vol. 9. p. 562.

RICCARDS Arthur. See William Sacheverell.

RICHARDS Samuel. See ibid.

ROCHESTER, Bishop of, secret Committee. Vol. 9.

p. 1

Principal Conspirators.

3

Their Agents.

ibid.

Report relating to Plunket and Layer.

5

Cowper Earl, his Declaration concerning the Burford Club.

16

Mr. Hutcheson's.

18

Observations on Plunket's Conduct.

20

Observations on Kelly's Part in the Conspiracy.

31

Neynoe's Examination.

32

Mrs. Barnes's Deposition about the Dog.

35

The three Letters produc'd as the principal Evidence against the Bishop.

37

Extracts of several Letters.

41 & seq.

The Report of the Lords Committee.

59

Plunket's

An Alphabetical T A B L E.

Plunket's farther Examination. Vol. 9. Page 66	
<i>A Bill brought in against Plunket, who made no Defence.</i>	70
<i>The Act.</i>	ibid.
<i>Bill brought into the House of Commons against Kelly.</i>	72
<i>Lords heard Counsel for and against the Bill.</i>	ibid.
<i>Kelly's Speech.</i>	ibid. & seq.
<i>The Act.</i>	83
<i>Proceedings against the Bishop.</i>	84
<i>Sir Constantine Phipp's Speech in the Bishop's Defence.</i>	ibid.
<i>Mr. Wynne, the Bishop's other Counsel, Observations on the Charge and Evidence.</i>	98
<i>Sir Constantine Phipps's Observations on the Bishop's Evidence.</i>	122
<i>Mr. Wynne's Observations.</i>	124
<i>The Bishop's Speech in his own Defence.</i>	129
<i>Mr. Reeves replies.</i>	142
<i>Mr. Wearg's Reply to the Bishop's Defence.</i>	150
<i>Bishop Salisbury's Speech for passing the Bill.</i>	158
<i>Duke of Wharton's Speech on the third Reading of the Bill.</i>	167
<i>Earl C——pr's Speech on the third Reading of the Bill.</i>	180
<i>The Act to inflict Pains and Penalties on him.</i>	200
ROE Richard. See Kendal.	

S.

SACHEVERELL William Esq; his Trial, with Twenty-one other Gentlemen, for a Riot at Nottingham 1684. Vol. 7. p. 389	
<i>The Information for being unlawfully present at the Election of a Mayor, when they had no Concern in the Election, and for carrying away one of the Maces.</i>	ibid.
<i>Sir Thomas Jenner's Speech before Evidence.</i>	390
<i>Mr. North's Speech.</i>	392
	Mr.

An Alphabetical TABLE.

<i>Mr. Jones's Speech.</i>	Vol. 7. Page 392
<i>Evidence of a Dispute between two Charters, and that the Defendants committed a Riot in contending for the old one.</i>	393
<i>Mr. Pollexfen's Speech for the Defendants.</i>	405
<i>The Court refuse to hear any thing for or against either of the Charters, the Matter in Question being only for a Riot.</i>	409
<i>Witnesses examin'd for the Defendants.</i>	411
<i>Lord Chief Justice Jefferies sums up the Evidence.</i>	421
<i>Twenty are found guilty and fin'd, and one acquitted.</i>	423
<i>Their respective Fines.</i>	ibid.
SAINT LEGER, Sir John. See Sir Jeffery Gilbert.	
SALMON Francis. See William Sacheverell.	
SHERFIELD Henry Esq; <i>Proceedings against him in the Star-Chamber for breaking a painted Glass Window in a Church, 8 Car. I.</i>	
	Vol. 7. p. 69
<i>The Information against him.</i>	ibid.
<i>In his Answer he owns the Fact, and justifies it.</i>	70
<i>Depositions of the King's Witnesses read.</i>	71
<i>The Defendant's Reply.</i>	74
<i>Mr. Attorney's Answer.</i>	75
<i>The Commissioners differ in Opinion as to the Sentence; the Speech of Lord Cottington for a severe one.</i>	78
<i>Sir Robert Heath for a mild one.</i>	80
<i>Sir Thomas Richardson the same.</i>	81
<i>Secretary Windebank, for a severe one.</i>	83
<i>Secretary Cooke and Sir Thomas Jermyn, for a mild one.</i>	84
<i>Sir Henry Vane, for a severe one.</i>	85
<i>Sir Thomas Edmunds, for a mild one.</i>	ibid.
<i>Dr. Laud, Bishop of London, for a severe one.</i>	85
<i>Lord Wentworth, for a severe one.</i>	90
<i>Lord Falkland and Earl of Devon, the same.</i>	91

An Alphabetical T A B L E.

<i>Viscount Wimbleton and Earl of Dorset, for a mild one.</i>	Vol. 7. Page 91
<i>Earl of Arundel, for a severe one.</i>	93
<i>Earl of Manchester, for an easy one.</i>	ibid.
<i>Dr. Neale, Archbishop of York, for a severe one.</i>	94
<i>Lord Keeper, for a mild one.</i>	95
<i>His Sentence.</i>	97
SHERWIN John. See William Sacheverell.	
SMITH Samuel. See ibid.	
SMITH Richard. See ibid.	
SMITH Richard. See ibid.	
SPOTISWOOD Sir Robert, <i>his Trial for High Treason, in the Parliament held at St. Andrews in Scotland, 1645.</i>	Vol. 9. p. 544
<i>Charge or Dittay.</i>	ibid.
<i>Sir Robert's Answer.</i>	545
<i>Replies to the Answer.</i>	547
<i>Duplies of Sir Robert.</i>	548
<i>Farther Replies.</i>	550
<i>Farther Duplies by Sir Robert.</i>	551
<i>He is condemn'd.</i>	556
<i>His Speech.</i>	558
<i>He is executed.</i>	560
SPROT George, <i>his Trial in Scotland for conspiring with the Earl of Gowry to murder King James I.</i>	Vol. 7. p. 39
<i>At his Trial his Confession is read against him.</i>	41
<i>He abides by his Confession, and is condemn'd.</i>	44
<i>His Execution.</i>	ibid.

T.

TRAUNTER Robert. See Hugh Reason.	
TRESILIAN, C. J. See the Proceedings at large against him, &c. under BRAMBRE.	
TRIGGE Thomas. See William Sacheverell.	
TURPIN Joseph. See William Sacheverell.	

An Alphabetical T A B L E.

V.

VERE, *Duke of Ireland. See Brambre.*

W.

WARD Sir Patience, *his Trial at Guild-hall for Perjury, 1683. Vol. 7. Page 284*
The Information open'd, charging the Defendant with Perjury, in a Cause between the Duke of York and Mr. Pilkington. ibid.
Mr. Serjeant Jefferies his Speech. 285
Evidence to prove he swore the Matters laid in Information. 286
Evidence that what Sir Patience testified was false. 288, 289
Sir George Treby Recorder his Speech for the Defendant. 290
Evidence to prove that Sir Patience did not swear positively, but to the best of his Memory, and with Caution. 291
Witnesses call'd to the Defendant's Reputation. 295
Sir George Treby's Observations for the Defendant. 297
Sir Francis Winnington's Speech. 299
Mr. Pollexfen on the same Side. ibid.
Mr. Attorney General's Reply. ibid.
Mr. Solicitor General, and Sir George Jefferies's Reply. 301, 2
Lord Chief Justice Saunders sums up the Evidence. 303
The Defendant convicted. 307
But withdraws before Sentence. ibid.
WIDDRINGTON Lord. *See Derwentwater.*
WILSON William, Clerk. *See William Sacheverell.*
WINTOUN George Earl of, *his Trial before the House of Peers, on an Impeachment of High Treason, 1715. Vol. 8. p. 208*

An Alphabetical T A B L E.

<i>The King's Commission, appointing Earl Cowper Lord High Steward.</i>	Vol. 8. p. 211
<i>Lord High Steward's Speech to the Prisoner.</i>	213
<i>The Articles read, charging him with having been in open Rebellion against the King.</i>	214
<i>His Answer.</i>	217
<i>The Commons Replication.</i>	218
<i>Mr. Hampden's Speech.</i>	ibid.
<i>Sir Joseph Jekyll's Speech.</i>	220
<i>Sir Edward Northey, Attorney General, his Speech.</i>	221
<i>Evidence that Earl Wintoun was with the Rebels from the 11th of October, till the Rebellion was suppress'd.</i>	223 & seq.
<i>Evidence of the King's Officers concerning his Surrender and the Terms of it.</i>	233
<i>Lord Wintoun desires Time to make his Defence.</i>	239
<i>Which is refus'd.</i>	241
<i>Mr. Cowper sums up the Evidence.</i>	244
<i>Lord Wintoun convicted.</i>	249
<i>Sir Constantine Phipps, his Counsel, his Speech in Arrest of Judgment.</i>	252
<i>Mr. Peere Williams on the same side.</i>	254
<i>Mr. Walpole's Reply.</i>	255
<i>Sir Edward Northey and Mr. Cowper's Speech.</i>	257
<i>Sir William Thompson's Argument.</i>	258
<i>The Prisoner's Counsel reply.</i>	259
<i>The Objection over-rul'd.</i>	261
<i>Lord High Steward's Speech before Judgment.</i>	ib.
<i>Judgment for High Treason pronounc'd upon him.</i>	264
WOODBURNE John, his Trial with Arundel Coke Esq; on the 22^o & 23^o Car. II. commonly called the Coventry Act, for Felony, at Suffolk Assizes, 1721.	Vol. 8. 387
<i>The Indictment charging him as Principal, and Coke as Accessary in disfiguring Edward Crispe.</i>	ib.
<i>Mr. Serjeant Selby and Mr. Serjeant Branthwayte their Speech before Evidence.</i>	ib.
	Mr.

An Alphabetical T A B L E.

<i>Mr. Crispe's Evidence of his being assaulted</i>	
	Vol. 8. Page 388
<i>The Surgeon's Evidence of the Nature of the Wounds.</i>	390
<i>Evidence of Woodburne's Confession that he did the Fact.</i>	391
<i>Evidence of Moon and Carter that Mr. Coke endeavour'd to persuade them to murder a Man.</i>	393
<i>Woodbourne's Defence where he owns the Fact, but says he was drawn in by Coke.</i>	394
<i>The Jury are told that Woodburne's Story is not Evidence against Coke.</i>	397
<i>Mr. Coke urges in his Defence, that his Intent was not to maim but to kill.</i>	398
<i>He desires Counsel may be assign'd him.</i>	ib.
<i>Which is refus'd, it being a Question of Fact, and not of Law.</i>	ib.
<i>Lord Chief Justice King's Directions to the Jury.</i>	399
<i>The Prisoners convicted.</i>	401
<i>Being call'd to Judgment, Mr. Coke insists on the same things as in his Defence.</i>	402
<i>The Prisoner's Exception disallow'd.</i>	ib.
<i>Lord Chief Justice pronounces Sentence of Death upon them.</i>	ib.
<i>They are executed.</i>	404
<i>Their Speeches and Behaviour.</i>	ib.

WORDS.

<i>The Opinion of all the Judges in Dr. Sacheverell's Case, that the Words suppos'd Criminal ought to be specify'd in an Information or Indictment, censur'd as erroneous.</i>	Vol. 8. p. 523.
--	-----------------

T H E
C O N T E N T S

Of the Seventh VOLUME.

- P***Proceedings against the Archbishop of York,
Duke of Suffolk, Sir Robert Tresilian, &c.
for High Treason. 11 Rich. 2. 1388. Page 1*
- The Trial of Sir John Perrot, Lord Deputy of
Ireland, for High Treason. 34 Eliz. 1592. 27*
- The Trial of Sir Christopher Blunt, Sir Charles
Davers, Sir John Davis, Sir Gilly Merrick and
Henry Cuff, for High Treason. 43 Eliz. 1600.
p. 32*
- The Trial of George Sprot in Scotland, for High
Treason. 6 James I. 1608. 39*
- Proceedings in Parliament against Francis Bacon
Lord Verulam, Viscount St. Albans, Lord Chan-
cellor of England, on an Impeachment for Bri-
bery and Corruption. 18 & 19 James I. 1620.
50*
- Proceedings in the Star-Chamber against Henry
Sherfield Esq; Recorder of Salisbury, for break-
ing a Glass Window in the Church of St. Ed-
mond's in the said City. 8 Charles I. 1632.
69*
- Proceedings in the Star-Chamber against Dr. Bast-
wick, Mr. Burton and Mr. Prynne, for several
Libels. 13 Charles I. 1637. 98*

The

The CONTENTS.

<i>The Trial of Thomas Harrison Clerk, for a Misdemeanor in speaking reflecting Words of Judge Hutton.</i>	14 Charles I. 1638.	116
<i>The Trial of Colonel Fiennes before a Council of War at St. Albans, for cowardly surrendering the City and Castle of Bristol.</i>	19 Charles I. 1643.	122
<i>The Trial of John Gerhard, Peter Vowell and Somerset Fox, for High Treason.</i>	6 Car. 2. 1654.	216
<i>Proceedings against the Marquiss of Argyle, for High Treason.</i>	13 Car. 2. 1661.	229
<i>The Trial of John Crook, Isaac Grey and John Bolton, Quakers, for refusing the Oaths of Allegiance and Supremacy.</i>	14. Car. 2. 1662.	260.
<i>The Trial of Mr. Samuel Atkins, for being Accessory to the Murder of Sir Edmundbury Godfrey.</i>	31 Car. 2. 1678, 9.	269
<i>The Trial of Slingsby Bethel at the Bridge-house Southwark, for an Assault and Battery, at the Election of Members of Parliament.</i>	33 Car. 2. 1681.	277
<i>The Trial of Sir Patience Ward, Knt. for Perjury.</i>	35 Car. 2. 1683.	284
<i>Proceedings between the King and the City of London, on an Information in Nature of a Quo Warranto.</i>	35 Car. 2. 1683.	307
<i>The Trial of William Sacheverell and others, for a Riot at Nottingham.</i>	36 Car. 2. 1684.	389
<i>The Trial of Joseph Hayes, for High Treason.</i>	35 Car. 2. 1684.	437

F I N I S.

*BOOKS Printed for T. WOTTON,
J. SHUCKBURGH, and T. OSBORNE.*

MOdern History; or, The Present State of all Nations, describing their respective Situations, Persons, Habits, Building, Manners, Laws and Customs, Religion and Policy, Arts and Sciences, Trade, Manufactures and Husbandry, Planets, Animals and Minerals. By Mr. *Salmon*, in 13 Vol. in 8vo. Illustrated with a great Number of curious Cuts and Maps, accurately drawn according to the Geographical Part of this Work, by *Herman Moll*. The Third Edition. Price 5 l.

N. B. This *Universal History*, which has met with general Approbation, will be carried on with all possible Care and Dispatch, and save Gentlemen the Expence of buying a Number of Volumes, besides the Difficulty of coming at others, which are only in the Libraries of the Curious.

P. S. Vol. 14. enters on *Great Britain*.

A Collection of Precedents, relating to the Office of a Justice of Peace; consisting of Orders, Warrants, Cognizances, Informations, Examinations, Passes, Settlements, and other Instruments, with References to the Statutes and other Authorities on which they are founded. In an Alphabetical Order. By *James Harvey*, Esq;

Magnæ Britannicæ Notitia; or, The Present State of *Great Britain*, with divers Remarks upon the Ancient and Present State thereof. By *John Chamberlain*, Esq; Fellow of the Royal Society. The 30th Edition, with Improvements, and more Exact and Larger Additions in the List of the Officers, &c. than in any former Impression. In Two Parts. With his Majesty's Royal Privilege.

Proposals for Printing by Subscription a Collection of Voyages and Travels. In 6 Vol. in Folio. The first four of the said Volumes (call'd *Churchill's Collection of Voyages and Travels*) have been already printed; but are now so scarce, that the Price is risen to double what they were first sold for.

The Two last Volumes are now first Printed from Original Manuscripts.



STATE TRIALS.

*Proceedings against Sir ROBERT
TRESILIAN, &c. for High
Treason. 11 Rich. II. 1388.*

*Proceedings in Parliament against Alex-
ander Nevil Archbishop of York, Ro-
bert Vere Duke of Ireland, Michael
De la Pole Earlof Suffolk, Robert Tre-
silian Lord Chief Justice of England,
and Nicholas Brambre sometime Mayor
of London, and others, for High
Treason. 3 Febr. 11 Rich. II. 1388.*



THE Editor of these Proceedings Vol. 5. Page 1.
relates, that these Gentlemen be-
ing of mean Extraction, and
rais'd to the Dignity of Privy
Counsellors, had the Administra-
tion of Affairs entirely in their
Hands, and governed the Nation for some Time
with universal Applause; but being afterwards in-
fected with insatiable Avarice, they had no Regard
to the Welfare of the Kingdom; but impoverish-

ed their Fellow Subjects by grievous Taxes, displaced such of the Nobility as were possessed of any Posts in the Government, and introduc'd obscure and vile People in their Stead, reducing the whole Kingdom thereby to a miserable Condition.

That the Nobility hereupon prevailed with the King (who was at this Time about nineteen Years of Age) to call a Parliament for a Redress of the Nation's Grievances *; and a Parliament was accordingly held on the first Day of *October* 1386. in which *John Fortham*, Bishop of *Durham*, was discharged of the Office of Treasurer, and *John Gilbert*, Bishop of *Hereford*, appointed Treasurer in his Room: *Michael De la Pole*, Earl of *Suffolk* and Chancellor of *England*, was also displaced and impeach'd by the Commons of High Crimes and Misdemeanors, and Articles exhibited against him of the Tenor following.

Articles a-
gainst the E.
of Suffolk.
Rot. Par.
10 Rich. 2.
N^o. 1, &c.

Page 2.

I. That the Earl being Chancellor, and sworn to act for the Profit of the King, had purchased Lands, &c. of the Crown to a great Value, causing them to be undervalued, in deceit of his Majesty.

II. That whereas nine Lords were commissioned by the last Parliament to review the State of the King and Realm, and regulate the Government thereof, the said Chancellor, who was the principal Officer, obstructed the putting the said Commission in Execution.

III. That a Tax having been granted by Parliament, and appropriated to a particular Purpose, the said Earl had caused it to be diverted to another Purpose, whereby the Sea was unguarded, and many other Mischiefs had ensued.

IV. That whereas ——— *Tideman* had an Annuity of 50 *l. per Ann.* granted to him and his Heirs by the late King *Edward* the Third, out of the Customs, which the said *Tideman* had for-

* Hollin. Chron. Vol. 3. page 453, &c. Grafton, p. 377, &c. Walsingh. p. 334. Tyrrel's Hist. of England, Vol. 3. part 2, p. 895, &c. Brady's Introduction, p. 307.

feited, and the Annuity discontinued for thirty-five Years; the said Earl purchased the same of *Tideman*, and prevailed with the King to confirm the said Purchase and Grant to him.

V. That whereas the Master of St. *Anthony* as a Scismatick had forfeited his Revenues in *England*, amounting to 400 Marks *per Ann.* to the King, the said Earl had taken the said Revenues to farm at twenty Marks *per Ann.* gaining thereby 300 Marks; and when a new Master nominated by the Pope ought to have had the Possession of the said Revenues, he could not obtain them till he had given three Thousand Pounds Security to the said Earl to pay him and his Son *John* an Hundred Pounds *per Ann.* during their Lives. Page 3.

VI. That while the Earl was Chancellor, divers Charters of Pardon were granted for Murders, Treasons, Felonies, &c. against Law. And a Charter of Franchises was granted to *Dover-Castle* in Disherison of the Crown, Subversion of the Laws, &c.

VII. That whereas ten thousand Marks were raised and appropriated to the Relief of *Gaunt*, the said City was left, and a thousand Pounds of the Money imbeziled by the Earl's Default. *

I. To the first Article the Earl answered, that he neither purchased nor accepted any Lands from the King while he was Chancellor, unless that when he was created Earl, four hundred Marks *per Ann.* were settled upon him by his Majesty, in Consideration of so much he had by Inheritance out of the Customs of *Kingston upon Hull*; Part whereof was assigned to him by *Tideman*; and that he also paid his Majesty one thousand Marks, which made it an advantageous Exchange for the Crown; and that notwithstand-

* *Walsingham* relates that all these Articles above-mentioned were so fully proved, that the Earl could not deny them; insomuch that when he stood upon his Defence, he had nothing to say for himself: Whereupon the King blushing for him, shook his Head, and said, *Alas, Alas, Michael, see what thou has done.*

ing his Oath as Chancellor, he might lawfully take or purchase of the King, and that the said Exchange had been confirm'd by Parliament.

2. The Answer to the second Article the Editor has omitted.

3. The Charge in the third Article (says the Editor) was denied; nor does it appear it was prov'd.

4. Nor does he give us the Earl's Answer to the fourth Article.

5. The Answer to the fifth Article also is omitted, with the Answers to the sixth and seventh.

But the Editor of these Proceedings relates, that the Commons in their Reply to the Earl's Answer, insisted, that he had acted contrary to his Oath, as Chancellor, being sworn *not to permit any Damage or Disberison to the King, or that the Rights of his Crown should by any Ways be destroyed, if he could hinder it.* Whereas he had obtain'd of the Crown 400 Marks *per Ann.* in Lands and Tenements, for which he had only exchange'd 400 Marks *per Ann.* in the Customs that were casual, and not so sure, without informing the King of his Damage in that Particular, and therefore demand Judgment of the Parliament upon the said Answer.

The Lords thereupon were of Opinion, that the Earl had unlawfully taken such Lands of the King, as are mentioned in the first Article; and since he had produced no Record of Parliament to prove they were confirmed to him, it was adjudg'd, that all the Lands, &c. so taken by him, should be seiz'd into the King's Hands, and that the Issues and Profits the Earl had receiv'd, should be levy'd on his other Lands; that the King should have all the Profits belonging to the Master of St. *Anthony* at the Time of that Purchase, and that the said Earl should be fin'd and imprison'd at the King's Pleasure.

That the Charters of Pardon mentioned in the third Article should be repeal'd.

The said Earl was afterwards imprison'd in the Castle of *Windsor*, and his Goods confiscated. The Parliament, before they broke up, appointed the
thirteen

thirteen following Noblemen Commissioners, to take upon them the Administration of the Government, and conferr'd on them an unlimited Power, to do whatever they saw fit.

The Commissioners were, 1. *William* Archbishop of *Canterbury*. 2. *Alexander Nevil*, Archbishop of *York*. 3. *Thomas Arundel*, Bishop of *Ely*, lately made Chancellor of *England*. 4. *William Wickham*, Bishop of *Winchester*. 5. *John Gilbert*, Bishop of *Hereford*, Lord Treasurer. 6. *Thomas* Bishop of *Exeter*. 7. *Nicholas* Abbot of *Waltham*, Lord Keeper of the Privy Seal. 8. *Edmund Langley*, Duke of *York*. 9. *Thomas* of *Woodstock*, Duke of *Gloucester*. 10. *Richard* Earl of *Arundell*. 11. *John* Lord *Cobham*. 12. *Richard* Lord *Scrope*. 13. *John Devereux*, Knt. *

And it was enacted, that if any refus'd to obey their Ordinances, the Offenders should forfeit their Goods for the first Offence, and the second should be Capital.

Michael de la Pole, being released from his Imprisonment soon after the breaking up of the Parliament, is charged with suggesting to the King, that

* The Commission, which is among the Parliament-Rolls, 10 Rich. II. Part I. M. 7. mentions but eleven Commissioners, omitting the Bishop of *Ely* and *Hereford*, and was in Substance as follows :

That the King, of his own free Will, and at the Request of his Lords and Commons, had chang'd the great Officers of the Crown above-mentioned, for the good Government of the Kingdom, the good and due Execution of the Laws, and in Relief of his own Estate, and Ease of his People, and had appointed eleven Commissioners, viz. *William*, Archbishop of *Canterbury*, *Alexander* Archbishop of *York*, *Edmond* Duke of *York*, and *Thomas* Duke of *Gloucester*, (the King's Uncles) *William* Bishop of *Winchester*, *Thomas* Bishop of *Exeter*, *Nicholas* Abbot of *Waltham*, *Richard* Earl of *Arundel*, *John* Lord *Cobham*, *Richard* le *Scrope*, and *John Devereux*, to be his great and continual Council for one Year next coming after the Date of these Letters Patents, by which he gave them Power to survey and examine all his Officers, Courts, Household, and the Government of the whole Kingdom, to receive all his Revenue, as also all Subsidies, Taxes, and other Payments, to do what they would in the Kingdom, and to amend all Things according to their Discretions. And these Powers

Page 4.

that the said Statute was prejudicial to his Honour and Prerogative, and in Effect had depriv'd him of his Royal Authority, and thereby created in the King great Jealousies of the said Lords, to whom the Commission was granted; that the said Earl of *Suffolk*, the Duke of *Ireland*, and *Robert Tresilian*, Lord Chief Justice, moved the King to destroy the Duke of *Gloucester*, the Earls of *Arundel*, *Warwick*, *Derby* and *Nottingham*, and others of that Party, and that, together with *Alexander*, Archbishop of *York*, and Sir *Nicholas Brambre*, they had devised Means to dispatch the said Lords; and for that Purpose had desir'd Assistance of the *French* King, to apprehend the said Lords, and had prevailed with the Judges to declare the said Lords guilty of High Treason, in procuring the abovesaid Statute.

The Duke of *Gloucester*, the Earls of *Arundel*, *Warwick*, &c. therefore, under Pretence that the Earl of *Suffolk*, the Duke of *Ireland*, and other Royal Favourites, were confederating against them, rais'd a great Army, defeated the Duke of *Ireland*, the King's General, and compell'd his Majesty to call a Parliament; where they appeal'd or charged the Archbishop of *York*, the Duke of *Ireland*, the Earl of *Suffolk*, Sir *Robert Tresilian*, and Sir *Nicholas Brambre* with High Treason, and exhibited thirty-nine Articles against them of the following Tenor.

were given to any Six of them with his three great Officers, willing, that if any Difference in Opinion shou'd happen between his Counsellors and those Officers, that the Matter should be determined by the major Part of them, commanding and charging all Prelates, Dukes, Earls, Barons, the Steward, Treasurer, and Comptroller of his Household, the Justices of one Bench or the other, and other his Justices whatsoever, Barons and Chamberlains of the Exchequer, Sheriffs, Escheators, Mayors, Bailiffs, and all other his Officers, Ministers and Lieges whatsoever, that they should be attending, obedient, counselling and assisting to the said Counsellors and Officers so often as, and in what Manner they should direct. Dated at *Westminster* the 19th Day of *November*. Upon this Commission a Statute was made, and the whole recited in it, which may be seen in the Statute Book to *Richard II. cap. 1.* and the Repeal of it 21 *Richard II. cap. 2.*

1. There

The Charge
against the
appeal'd Lords.
Page 6.

1. That as false Traitors and Enemies to the King and Kingdom, taking Advantage of his Minority, they had insinuated themselves into his Majesty, and endeavour'd to make him rely solely on their Advice, rendering his Loyal Lords, and other Liege, hated and suspected, by whom he ought to have been governed; that they had encroach'd to themselves Royal Power, by enslaving the King, lessening his Prerogative, and making him obedient to their Will.

2. That the said *Alexander, Robert* and *Michael*, had made his Majesty swear to maintain and support them, and to live and die with them, and by this Means brought him into Servitude more than any Man in his Kingdom.

3. That the said *Robert, Michael* and *Alexander*, by the Advice of *Robert Tresilian*, that false Justice, and *Nicholas Brambre*, that false Knight of *London*, would not permit the great Men of the Kingdom to come near the King, or suffer them to speak to him, unless in their Presence and Hearing, assuming thereby Royal Power over the Person of the King, to the great Dishonour and Peril of the King and Realm.

4. That the said false Traitors advising the King to refuse his personal Presence to his great Lords and Liege People, the Favours and Rights, to which they requested an Answer, were not to be obtain'd; but at their Pleasure and Allowance thus restraining the King from his Duty against his Oath, thereby turning the Hearts of the great Lords from him, with Design to estrange his Heart from the Peers, and obtain the sole Government of the Kingdom themselves.

5. That the said *Robert* and *Michael*, by the Advice of the said *Alexander*, had caused the King, without the Assent of the Kingdom, to give divers Lordships, Towns and Manors, the whole Realm of *Ireland*, the Town and Forest of *Okeham*, with the Lands of the late Lord *Audley*, and other great Estates, to the said *Robert de Vere*, and others, without any Desert; whereby

they were enriched, and the King became so poor that he could not support the Charges of the Government, without Impositions and Taxes on his People, in Disherison of his Crown, and to the undoing of the Realm.

6. That they caus'd the King to give divers Lands, Manors, &c. to their Kindred, of whom they receiv'd great Bribes, and drew them to their Party in their false Quarrels, as in the Case of Sir *Robert Mansel*, Clerk, *John Blake*, *Thomas Uske*, and others, to the Destruction of the King and Kingdom.

7. That they caus'd the King to give great Sums of his own, and out of the Taxes rais'd by Parliament for the Defence of the Kingdom, amounting to an Hundred thousand Marks and upwards, to the said *Robert*, and others, and caus'd many good Ordinances of Parliament, made for Defence of the Kingdom, to be interrupted.

8. Also that the said *Robert*, *Michael*, and *Alexander*, for great Bribes, had plac'd insufficient Persons in divers Lordships, Castles, and Countries in *Guyenne*, the Marches of *Holland*, and elsewhere, as well on this Side as beyond Sea; whereby the King's loyal People were destroy'd, and great Dominions surrendred to the Enemy, without the Assent of the Kingdom; in Disherison of the Crown, and great Injury of the Realm, as in the Case of *Harpedon*, *Craddock*, and others.

Page 7.

9. That by the Encroachment of the said *Alexander*, &c. People have been deny'd the Benefit of the Common Law of *England*, and suffer'd great Delays and Losses: Statutes and Judgments of Parliament have, by the Bribery and Procurement of the said Traitors, been reversed and annull'd.

10. Also, as false Traitors, they had advis'd and caus'd the King to grant Pardons for horrid Treasons and Felonies against Law, and his Majesty's Oath.

11. That the said *Robert*, Duke of *Ireland*, *Alexander* and *Michael*, &c. as false Traitors, advis'd his Majesty to make the said *Robert de Vere*,
King

King of *Ireland*, and excited the King to send Letters to the Pope to confirm their traiterous Intention, without the Knowledge of the Kingdom of *England* or Land of *Ireland*, in Dishonour of the Crown of *England*, and in Destruction of his loyal Lieges of *Ireland*.

12. And whereas by the great Charter no Man ought to be imprison'd, or put to Death, without due Process of Law, the said *Nicholas Brambre* did, in the Night-time, take certain Persons out of the Prison of *Newgate*, some of them Debtors, and others charg'd with Felony, to the Number of twenty-two, and brought them to a Place, call'd *The Foul Oak*, in *Kent*, where, without any Warrant or Process of Law, he caus'd all their Heads to be cut off, but one that was charg'd with Felony, whom he suffer'd to go at large.

13. And the said *Alexander*, &c. took great Bribes in many Cases in the King's Name, for Maintenance of Quarrels or Suits, and once took Bribes on both Sides.

14. That they caus'd some Lords, and others, to be put out of the King's Council, deterring them from speaking in Parliament concerning the good Government of the Kingdom.

15. And whereas the Lords and Commons assembled in the last Parliament, seeing the imminent Ruin of the King and Kingdom by the Mischiefs aforesaid; and for that the *French* King was preparing to invade *England*, and destroy the Kingdom and Name thereof; and shew'd his Majesty how he was ill govern'd and led by the said Traitors, and required him, for the Safety of himself and Nation, to remove the said Evil-doers and Traitors from his Presence, and not to be govern'd by their Advice, but by that of the Sages of the Realm: They caus'd the King thereupon to command the Mayor of *London* to put to Death all the Lords and Commons that were not of their Party: In which Tragedy the said Traitors were to have been Actors to the undoing of the King and Kingdom.

16. Also that the said five Traitors, when the Mayor and People of *London* refused, in the King's Presence, to murder the Lords and Commons, advised his Majesty, and prevail'd with him to leave the Parliament many Days, and certify that he wou'd not treat with them concerning the Business of the Kingdom, let the Consequence be never so destructive to him and his Realm, if the Lords and Commons wou'd not assure him that nothing should be transacted against the said Misdoers, save that they might proceed in the Process against the said *Michael de la Pole*, to the Ruin of the King and Kingdom, and against the antient Ordinances and Liberties of Parliaments.

* There were 13 Commissioners, but only 12 of them were Peers.

17. And whereas it was ordain'd that twelve Lords * should be of the King's Council for one Year, authoriz'd by Commission and Statute to have the Administration of the Government, importing that no Man should advise the King against them, on Forfeiture of his Goods for the first, and of his Life for the second Offence; the said Traitors, by their false and treacherous Informations, insinuated that the said Commission and Statute were made to deprive him of his Royal Authority, and that those who advis'd the King to consent to them, deserv'd to be put to Death as Traitors.

Page 8.

18. That they caus'd the King to assemble a Council of certain Lords, Justices, and others, without the Assent of the said Lords, making very suspicious Demands, which occasion'd great Trouble to the King, Lords, and People of this Realm.

19. Also, to accomplish the said Treason, they caus'd the King to ride through the Kingdom into *Wales*, and summon the Nobility, Gentry, and others, to attend him, some of whom were oblig'd to enter into Bond, and others oblig'd by Oaths, to stand by him against all People, to effect his Purpose, which was then the Will and Purpose of the said Traitors; which said Securities and Oaths were against the Laws of the Land,

Land, the King's Oath, and to the Ruin and Dishonour of the King and Kingdom.

20. By which Oaths and Bonds the Realm was put to great Trouble by the said Traitors, and in Danger of suffering intolerable Mischiefs.

21. Also the said five Delinquents caused the King to visit several other Parts of the Kingdom, whereby the Lords assign'd by the said Commission and Statute were prevented advising with him about the Business of the Kingdom, whereby the Design of them was defeated.

22. And the said *Robert de Vere*, by the Advice of the other Traitors, accroaching to himself Royal Power, without the King's Commission, or other sufficient Warrant, constituted himself Chief Justice of *Chester*, holding Pleas, and giving Judgment thereon, and causing Writs to be seal'd with the Great Seal used there: And by such Accroachment of Royal Power, caused great Part of the People of that County to rise, by threatening, imprisoning them, or seizing their Lands by Colour of the said Office; and all this to make War upon the Loyal Lords, and others his Majesty's Liege Subjects, to the Undoing of the King and Realm.

23. Also the said Traitors caused *John de Blois*, Heir of *Britany*, to be released from his Imprisonment, who was a Security to the King and Kingdom, without Assent of Parliament, or the King's great Council, to the Strengthening the Enemy, (*France*) and the Ruin of the Realm.

24. They also caus'd the King to have a great Retinue of People, to whom he gave Badges, to impower them to perform their Treasons, a Thing unheard of in the Reigns of his Ancestors.

25. That they caus'd the King to summon certain Justices and Lawyers to the Castle of *Nottingham*, on the Day after *St. Bartholomew* last, and constrain'd * the said Justices to set their Hands to

* Divers of the Justices refused to subscribe; but yet they were obliged to do as the rest did; among whom was *Robert Belknap*, who utterly refused, till the Duke of *Ireland* and the Earl

to the Answers of certain Questions propounded to them, that those about the King might have a Colour to put the Duke of *Gloucester* to Death, with the other Lords, who were ordain'd to have the Government of the Realm by the last Parliament.

Which Questions were of the following Tenor :

1. Whether the Statute and Commission made in the last Parliament were hurtful to the King's Prerogative? To which they unanimously answer'd, They were, especially because they were against the King's Will.
2. How they ought to be punish'd who procured the said Statute, &c.? Whereto they answer'd, That they deserv'd Death, except the King pardon'd them.
3. How they ought to be punish'd who advis'd the King to consent to the said Statute? Which receiv'd the same Answer as the second Question.
4. What they deserv'd who compell'd the King to make that Statute, &c.? To which it was answer'd, They ought to suffer as Traitors.
5. How they ought to be punish'd, who interrupting the King in exercising his Authority and Prerogative? *Answer*, They ought to be punish'd as Traitors.
6. It was demanded if Articles were proposed by the King to be consider'd in Parliament, and the Lords should nevertheless proceed upon other Articles, and neglect those which the King had proposed, until he had answered theirs, notwithstanding the King commanded the contrary: Whether the King might not oblige them to proceed on the

Page 9.

Earl of *Suffolk* compell'd him thereto; for if he had persisted in his Refusal, he had not escaped their Hands; and yet when he had set his Seal, he burst out into these Words: 'Now here lacketh nothing but a Rope, that I may receive a Reward worthy my Desert; and I know, if I had not done this, I should not have escaped your Hands, so that for your Pleasures, and the King's, I have done it, and thereby deserve a Death at the Hands of the Lords. *Hollingshead, Vol. 2. p. 456.*

Articles

Articles limited by him before they proceeded further? *Ans^w.* The King might direct what Articles should be considered during the Parliament; and if any presum'd to go contrary to this Rule, he ought to be punished as a Traitor.

7. If the King might not dissolve the Parliament when he pleas'd? To which 'twas answer'd, He might.

8. Forasmuch as the King might remove and punish such Justices and Officers as offended, Whether the Lords and Commons might, without his Consent, impeach them for their Offences in Parliament? *Ans^w.* They might not, and he that attempted it was a Traitor.

9. How he ought to be punish'd who mov'd in Parliament that the Statute might be sent for (whereby *Edward*, the Son of King *Edward*, Great Grandfather to the present King, was indicted in Parliament) by which Statute the said new Statute and Commission were devised? *Ans^w.* That he that call'd for the said Statute, and that he that brought it in, ought to suffer as Traitors.

10. Whether the Judgment given in Parliament against *Michael de la Pole* was erroneous and revocable? *Ans^w.* That it was erroneous and revocable.

In Testimony whereof the Justices and Serjeant aforesaid set their Seals: The Witnesses being *Alexander* Archbishop of *York*, *Robert* Archbishop of *Dublin*, and the Bishops of *Durham*, *Chester*, and *Bangor*, with *Robert* Duke of *Ireland*, *Michael* Earl of *Suffolk*, *John Rippon* Clerk, and *John Blake*.

26. That the said five Traitors drew away the Heart of the King from the said Lords, who procur'd the said Statute to be made in the last Parliament, and caus'd his Majesty to account them Enemies and Traitors, contriving that those Lords shou'd be arrested, and indicted, and put to Death for Treason; which Arrests and Indictments were
to

to be made in *London* or *Middlesex*, for which Purpose they caus'd *Thomas Husk*, a profligate Person, to be made Under-Sheriff of *Middlesex*, who undertook the said Indictments and Attainders shou'd be accomplish'd; and for the more completely effecting the said Treason, they caus'd the King to send Letters of Credence by *John Rippon*, a false Clerk, to the Mayor of *London*, to arrest the Duke of *Gloucester*, and others; and *John Blake*, carry'd to the Mayor an Information against them, upon which they were to be indicted and attainted; the Tenor of which Information was, *That it seem'd better that certain Lords, Knights, and Commons of the last Parliament, who were notoriously impeachable, should be privately indicted in London and Middlesex, of conspiring to make a Statute and Commission in the same Parliament against the Royalty of the King, and in Derogation of his Crown, and procur'd the same to be pass'd, constraining the King to assent to it against his Will; and that they traiterously hindred the King from exercising his Royalty, swearing to maintain each other in this Matter, to the Disberison of his Majesty, and Derogation to his Crown.* And further, that the said Traitors set a Watch to arrest the Duke of *Lancaster* on his Arrival.

27. That having inform'd the King the said Statute and Commission were made in Derogation of his Royalty and Prerogative, they possess'd him, that those who procur'd them, had thereby a Purpose to degrade and finally to depose him; whereupon the King held them as Enemies and Traitors.

28. That they advis'd the King by all possible Ways, either by the Power of his own People, or of the *French*, his Enemies, to destroy and put to Death the said Lords, and others, who had assented to the said Statute and Commission, and that it might be effected so privately, that none might know of it till it was done.

29. That they advis'd his Majesty to send to the *French* King, his Enemy, to demand his Advice

vice and Assistance to destroy the said Lords, and others, whom he held to be his Enemies and Traitors.

30. And that the said *Alexander, Robert de Vere, and Michael*, caus'd his Majesty to promise the *French King*, for such his Assistance, to surrender *Calais*, and all other Fortresses the *English* held on the Confines of *Picardy* and *Artois*, with the Castles and Towns of *Cherburgh* and *Brest*.

31. That they had contriv'd a Conference should be held between the Kings of *England* and *France*, in the Marches of *Calais*, concerning a Truce; whither the *English* Lords going to attend their King, *Thomas Duke of Gloucester*, Constable of *England*, *Richard Earl of Arundel*, and *Thomas Earl of Warwick*, and others, were to have been treacherously put to Death.

32. That for Performance of this Treason, they caus'd the King to send for safe Conducts from *France* for himself: The Duke of *Ireland*, *John Salisbury* and *John Lancaster*, Knights, and others, who were to go into *France* to execute the said wicked Purpose and Treason; which safe Conducts were ready to be produc'd.

33. Also that the said *Nicholas Brambre*, false Knight, by the Advice of the other four, went into *London*, and, without the Knowledge of the King, made the Citizens swear to maintain the King against all such as should rebel against him, and to be ready to live and die with him, and to assemble themselves with their Mayor at any Time they shou'd be requir'd, to resist all such as shou'd design any Thing against the King, informing the People, that the Lords and others, who contriv'd the said Statute and Commission, were Rebels and Traitors, engaging the People of *London* to raise their Power, and destroy the said Loyal Lords, and others.

34. That the said *Nicholas, Alexander, Robert de Vere, and Michael*, assuming Royal Power without Warrant from the King, caus'd it to be proclaim'd in *London*, that none should aid or assist *Richard Earl of Arundel*, one of the Lords of
the

the said great Council, but should avoid all his Party as Rebels, on Pain of being proceeded against as such: Shewing Letters Patents from the King for making such Proclamation.

35. And the said *Nicholas Brambre*, by the Advice of the said *Alexander, Robert de Vere*, and *Michael*, caused it to be proclaimed in *London*, that none should speak ill of the said Traitors, on pain of forfeiting all they had.

36. Also the said five Traitors caused the King to make certain Sheriffs throughout the Kingdom, as would return such Knights to serve in Parliament as they should name.

37. And the said Traitors advised and prevailed with the King to command divers Knights, Esquires, Sheriffs, and other Ministers in several Counties, to assemble all the Power they could, to join the Duke of *Ireland* against the Lords Appellants, to make War upon them, and destroy them, during the Time of Protection of Parliament.

38. And also, during the Time of Protection, to signify to the Duke of *Ireland*, that they were all appealed of High Treason by *Thomas*, Duke of *Gloucester*, *Richard* Earl of *Arundel*, and *Thomas* Earl of *Warwick*; that he had given them Day till next Parliament, and taken both Parties into his special Protection. And further, That if the Duke of *Ireland* had sufficient Power, he should march with all his Forces to him. Soon after they caused the King to write to the Duke of *Ireland*, to take the Field with all the Forces he could get together, and his Majesty would meet him with his Troops, and venture his Royal Person with him; for he was in great Danger, as well as the whole Nation, if he was not relieved by him; which the Duke was ordered to declare, and that the King would take all those into his Pay that joined the said Duke. By Virtue whereof he raised a great Army in *Lancashire*, *Cheshire*, *Wales*, and other Places, to destroy the said Loyal Lords, and all others, who had assented to the said Statute and Commission in Defence of the Kingdom.

39. Also

39. Also the said *Robert de Vere*, Duke of *Ireland*, assembled a great Power in *Lancashire*, *Cheshire*, *Wales*, &c. intending to have destroyed the said Lords Appellants and others, marching with a great Force of Men and Arms, and Archers, from *Cheshire* to *Ratcot* Bridge, displaying the King's Banner in his Army against the State of the King and his Crown. Page 11.

This Charge was exhibited on *Monday* the 3d of *February*, being the first Day of the Parliament, when the Lords Appellants affirmed they were ready to prove every Article.

Whereupon the Lords appealed were summoned to Answer, and on their not appearing the Appellants prayed their Default might be recorded; and it was recorded accordingly: Then the Appellants prayed they might be adjudged convicted of the Treasons contained in the Appeal; but the King and Lords took Time to consider of the Articles, which they did with great Diligence until the thirteenth of *February*.

During this Interval the Justices, Serjeants, and others, learned in the Civil and Common Law, were charged by the King to give their Advice to the Lords in Parliament: Whereupon the said Justices, &c. declared, That the said Appeal was not made or brought either as the one Law or the other required: But the Lords resolv'd notwithstanding, That in so high a Crime as touches the Person of the King and the States of the Realm, and is perpetrated by the Peers thereof, with others, the Cause can only be tried in Parliament, and by no other Law or Court: That it belongs to the Lords of Parliament by antient Custom to Judge in such Cases by the Assent of the King, and that it should be done in this Case; for the Realm of *England* never was governed by the Civil Law; that so high a Case as this Appeal was, could not be determined in the Courts of Law or elsewhere, but in Parliament; Inferior Courts being only entrusted with the Ordinary Process and Execution of the Laws: It was the Judgment of the Lords in Parliament therefore, with

the Assent of the King, that this Appeal was well and duly brought, and the Procefs on the same good, according to the Law and Course of Parliament, by which they would award and judge of it. Then the Appellants moved again to Record their Default, and that *Nicholas Brambre*, the only Person in Custody, might be brought to answer.

Then the other Persons appealed were again summoned, and not appearing, the King and Lords took Time to deliberate till next Day, when their Default upon another Motion was recorded: After which the Lord Chancellor (being a Bishop) declared in the Name of his Brethren the Clergy, That they could not be present at any Proceedings where the Offence was Capital; and the Clergy delivered in a Protest, importing, That neither in respect of Favour, or Fear of any Man's Hate, or Hope of Reward, they absented themselves, but only as they were bound by the Canon not to be present at any Man's Arraignment or Condemnation; they also sent their Protestation to the Abbey Chapel, where the Commons sate, and it was allowed of.

Page 12.

The King and Lords being met on the 13th of *February* in the *White Hall*, the Appellants prayed that the last Default of the said Archbishop, Duke, Earl, and *Robert Tresilian*, might be recorded: Then the said Persons being summoned a third Time, and not appearing, the Lords declared, That several of the abovesaid Articles were Treason (*viz.*) the 1st, 2d, 11th, 12th, 15th, 17th, 18th, 29th, 30th, 31st, 32d, 37th, 38th, and 39th; and pronounced the said Archbishop, Duke and Earl, with *Robert Tresilian*, notoriously guilty of the Articles which concerned them respectively, and that they were guilty of all the rest of the Articles not yet declared to be Treason.

Then the said Lords Appellants demanded Judgment against the said Persons appealed, and the Lords, as Judges of Parliament in this Case, did adjudge the said Archbishop, Duke and Earl, with *Robert Tresilian*, so appealed as aforesaid, to be guilty

guilty and convicted of Treason, and to be drawn and hanged as Traitors and Enemies to the King and Kingdom; that their Heirs should be disinherited, their Goods and Chattels forfeited to the King; and that the Temporalties of the Archbishop of *York* should be taken into the King's Hands.

On the 17th of *February* Sir *Nicholas Brambre* being brought by the Constable of the *Tower* to the Bar, and required to answer to every Part of the Treason contained in the said Articles, answered, That whoever had branded him with that ignominious Mark, he was ready to fight in the Lists, and maintain his Innocency, whenever the King should appoint.

The Appellants replied they would readily accept the Combat, and flung down their Gages before the King; as did a Multitude of others, crying, We will prove these Articles to be true to thy Head, most damnable Traitor. But the Lords resolv'd that Battle did not lie in this Case, and that they would proceed upon the Articles against the said *Nicholas*, according to the Law and Course of Parliament.

On *February* the 17th *Brambre* being brought to the Lords Bar, there came down several Citizens of *London*, complaining of the Extortions and Exactions they had suffered from *Brambre*: But before the Lords had made any Progress in the Trial of *Brambre*, News was brought them, that the Chief Justice *Tresilian* was taken at an Apothecary's House near the Palace, where he lay concealed in Disguise, in order to get Intelligence of the Lords Proceedings. *

Tresilian

(*) *Froisart's Chron. Part 2, fol. 110.* relates the Manner of his Discovery thus: Understanding that the King's Uncles, and the new Council at *England*, would keep a secret Parliament at *Westminster*, he (*Tresilian*) thought to go and lie there, to learn what should be done, and so he came and lodg'd at *Westminster*, the same Day their Council began; and lodg'd in an Alehouse, right over-against the Palace Gate; and there he was in a Chamber, looking out at a Window, down into the

Tresilian being brought before the Lords, who demanded of him what he could say why Execution should not be done according to the Judgment passed upon him for his Treasons, neither answered

the Court; and there he might see them that went in and out to the Council; but none knew him, because of his Apparel: At last, on a Day, a Squire of the Duke of Gloucester's knew him, for he had oftentimes been in his Company; and as soon as Sir Robert *Tresilian* saw him, he knew him well, and withdrew himself out of the Window; the Squire had Suspicion thereof, and said to himself, methinks I see, yonder, Sir Robert *Tresilian*; and to the Intent to know the Truth, he entered into the Lodgings, and said to the Wife, Dame, who is that that is above in the Chamber, is he alone, or with Company? Sir, quoth she, I cannot shew you, but he has been here a long Space: Therewith the Squire went up, the better to advise, and saluted him, and saw well it was true; but he feign'd himself and turn'd his Tale and said, God save you, good Man, I pray you be not discontented, for I took you for a Farmer of mine in *Essex*, for you are like him: Sir, quoth he, I am of *Kent*, and a Farmer of Sir John *Holland's*, and there be Men of the Bishop of *Canterbury's* wou'd do me Wrong, and I am come hither to complain to the Council: Well, quoth the Squire, if you come into the Palace, I will help to make your way, that you shall speak with the Lords of the Council. Sir, I thank you, quoth he, and I shall not refuse your Aid; then the Squire call'd for a Pot of Ale, and drank with him, and paid for it, and bid him farewell, and departed, and never ceased till he came to the Council-Chamber Door, and call'd the Usher to open the Door; then the Usher demanded what he would, because the Lords were in Council? He answer'd, and said, I would speak with my Lord and Master, the Duke of Gloucester, for a Matter that right near toucheth him and all the Council; then the Usher let him in; and when he came before his Master, he said, Sir, I have brought you great Tidings. What be they? quoth the Duke. Sir, quoth the Squire, I will speak aloud, for it toucheth you, and all my Lords here present; I have seen Sir Robert *Tresilian* disguis'd in a Villain's Habit, in an Alehouse here, without the Gate: *Tresilian*! quoth the Duke. Yea, truly, Sir, quoth the Squire, you shall have him ere you go to Dinner, if you please. I am content, quoth the Duke, and he shall shew us some News of his Master, the Duke of *Ireland*: Go thy way, and fetch him; but look that thou be strong enough so to do, that thou fail not. The Squire went forth, and took four Serjeants with him, and said Sirs, follow me afar off; and as soon as I make to you a Sign, and that I lay my Hand on a Man, that I go for, take him, and let him not escape. Therewith the Squire entered into the House where *Tresilian* was, and went up into the Chamber; and as soon as he saw him, he said, *Tresilian*, you are come into this Country for no Goodness; my Lord, the Duke

ed any thing, or acknowledged himself guilty, if Page 13.
we may credit our Anonymous Author. Where-
upon he was sent to the *Tower*, and from thence
drawn through the Streets on a Hurdle to *Tyburn*:
When he was come to the Gallows, 'tis said, he re-
fused to mount the Ladder, until he was beaten
with Staves, and forced to go up. After which,
my superstitious and credulous Author says, he
told the Executioner he could not die as long as he
had any Cloaths on; whereupon he was stripped,

of *Gloucester*, commandeth that you come and speak with him.
The Knight would have excused himself, and said I am not
Tresilian, I am a Farmer of Sir *John Holland's*. Nay, nay
quoth, the Squire, your Body is *Tresilian's*, but your Habit is
not; and therewith he made Tokens to the Serjeants, that
they should take him: Then they went up into his Chamber,
and took him, and so brought him to the Palace. Of his taking
the Duke of *Gloucester* was right joyful, and would see him;
and when he was in his Presence, the Duke said, *Tresilian*,
What thing makes you here, in this Country, where is the
King; where left you him. *Tresilian*, when he saw that he
was so well known, and that none Excusation could avail him,
said, Sir, the King sent me hither to learn Tidings; and he
is at *Bristol*, and hunteth along the River *Severn*. What,
quoth the Duke, you are not come like a wise Man, but ra-
ther like a Spy: If you would have come to have learnt
Tidings, you should have come in the State of a Knight. Sir,
quoth *Tresilian*, if I have trespassed, I ask Pardon; for I was
caused thus to do. Well, Sir, quoth the Duke, and where
is your Master, the Duke of *Ireland*? Sir, quoth he, of a
Truth, he is with the King. It is shewed us here, quoth
the Duke, that he assembleth much People and the King for
him; Whither will he lead those People? Sir, quoth he, it
is to go into *Ireland*. Into *Ireland*, quoth the Duke of *Glou-*
cester. Yea, Sir, truly, quoth *Tresilian*: And then the Duke
studied a little; and said, ah! *Tresilian*, *Tresilian*, your Bu-
siness is neither fair nor good; you have done great Folly
to come into this Country; for you are not belov'd here; and
that shall be well seen: You, and such other of your Affinity,
have done great Displeasure to my Brother and me; and you
have troubled, to your Power, and with your Council, the
King, and divers others, Nobles of the Realm; also you have
moved certain good Towns against us. Now is the Day
come that you shall have your Payment; for he that doth
well, by Reason should find it: Think on your Business; for
I will neither eat nor drink till you be dead. That Word
greatly abash'd *Tresilian*. He would fain have excused him-
self with fair Language, in lowly humbling himself; but he
could do nothing to appease the Duke; so Sir *Robert Tresilian*
was delivered to the Hangman, and so led out of *Westminster*,
and there beheaded, and after hanged on a Gibbet.

and certain Images found about him, painted like the Signs in the Heavens, the Head of a Devil painted, and the Names of many Devils wrote in Parchment; which being taken away he was hanged up naked; and after he had hanged some Time, that the Spectators might be sure that he was dead, the Executioner cut his Throat, and let him hang till Morning, when his Wife obtained Leave to take his Body, and bury it in *Grey Friars*.

On the 20th of *February*, *Brambre* was brought before the House again, but not being able to make answer to the Articles wherewith he was charged, says the same Author, Sentence was pronounced against him, as against the other Conspirators, and he was drawn through the City from the *Tower* to *Tyburn*; where he was hanged, and afterwards his Throat cut, * according to this Account; but Writers vary much as to the manner of his Execution.

The Judges *Robert Belknap*, *John Holt*, *Roger Fulthorpe*, *William Burleigh*, *John Carey*, and *John Lockton*, being impeached by the Commons for the Answers they gave the King at *Nottingham*, to the Queries propounded to them concerning the Commission and Statute abovementioned, which transferr'd the Regal Authority to the Duke of *Gloucester*, and the other Lords, were brought to the Lords Bar on the second of *March*, to answer for the same: Whereupon Sir *Robert Belknap* answer'd, That the Answers were not drawn up according to their Directions, and that they were forced to sign them by the Threats of the Archbishop of *York*, the Duke of *Ireland*, and Earl of *Suffolk*; that they were sworn, as the

Page 14.

* *Grafon*, p. 379. and from him *Hollingshed*, Vol. 3. page 463, says, That in his Mayoralty he caused great and monstrous Stocks to be made to imprison Men in; as also a Common Axe, to strike off the Heads of such as should resist his Will and Pleasure; and that he was Sentenced by the Parliament to be Beheaded with his own Axe. *Froisart's Chron.* Part 2. Fol. 113. But it appears by the *Parliament Rolls*, 11 *Rich. 2.* Par. 3. N^o. 15. that both he and *Tresilian* were drawn and hang'd.

King's Council, to conceal the Matter, and prayed they might have a merciful Judgment: The Lords, however, passed Sentence on them as Traitors; whereupon the Archbishop of *Canterbury*, the Bishop of *Winchester*, and the rest of the Lords Spiritual, came to the Parliament, and upon their Knees entreated the King and the Temporal Lords, for the Love of God, the Virgin, and all Saints, and as they hoped for Mercy at the Day of Judgment, not to put the Judges to Death; and the Duke of *Gloucester*, the Earl of *Derby*, and some other Lords joining in the same Petition, they were banished to *Ireland* for Life. *

On *Tuesday March 3*. *John Blake* and *Thomas Uske* were brought before the House; *Blake* was impeached by the Commons for drawing up the Questions to which the Judges gave their Answers, and for conspiring to murder the Duke of *Gloucester* and the other Lords, to whom the above-mentioned Commission was granted; and also advising and aiding the appealed Lords in their Treasons.

Thomas Usk was charged with procuring himself to be made Under-Sheriff of *Middlesex*, in Order to cause the Lords Appellants, &c. to be arrested, and for aiding and counselling the appealed Lords in their Treasons.

John Blake answered, That he was of the King's Council, and sworn to keep his Secrets, and whatever he had done was by the King's Command: And *Uske* answered to the same Effect.

* They were thus distributed; *Robert Belknap*, and *John Holt*, in the Village of *Dromore*, in *Ireland*; not to live as Justices, but as banished Offenders, nor to go out of Town above the Space of two Miles upon pain of Death; but the King, out of his Bounty, was pleased to give a yearly Annuity of forty Pounds to *Robert Belknap*, and of 20 Marks to *John Holt*, during their Lives.

Roger Fulthorpe, and *William Burleigh*, in the City of *Dublin*, with the yearly Allowance of Forty Pounds to each, during Life, with the Liberty of going two Miles, to *Burleigh*, and of three to *Fulthorpe*, for their Recreation.

John Carey, and *John Locton*, in *Waterford*, with the yearly Allowance of Twenty Pounds to each, during Life, with the like Liberty and like Penalty.

The Lords having taken Time to consider of their Answers till the next Day (the 4th of *March*) the said *John* and *Thomas* were again brought before them, and being convicted, Sentence was passed upon them, as in Cases of High Treason.

On the 5th of *March*, *Thomas*, Bishop of *Chichester*, was impeached and charged by the Commons with being present when the abovementioned Questions were put to the Judges, and exciting them by Threats to give the Answers aforesaid; and that he was privy to the Treasons of the appealed Lords, and concealed them.

To which the Bishop answered, That he had not excited the Judges to do or say any thing, nor were they desired to say any thing but what the Law was: And as to the Concealment of the said Facts, he was under an Obligation not to discover them; nor was it in his Power to prevent the Mischiefs that ensued, the appealed Lords about the King being in so great Power. To which the Commons replied, He had upon the Matter confessed himself guilty, and prayed he might be attainted.

Page 15.

March the 12th, *Simon de Burleigh*, Lord Chamberlain, *John de Beauchamp*, Steward of the Household, *James Baroverse*, and *John Salisbury*, Knights, were brought to the Bar, and impeached by the Commons, for aiding, counselling and abetting the appealed Lords: And the said *Simon Burleigh*, and *John Beauchamp*, were charged as Principals in the said Treasons, particularly, That the said *Simon* advised the King to entertain in his Household great Numbers of Foreigners, *Bohemians* and others, and to give them large Allowances out of the Revenues of the Realm; whereby the King was impoverished, and the People oppressed. To which they all pleaded *Not Guilty*.

Upon this, and the Bishop of *Chichester*'s Impeachment, the Lords took Time to consider till the 5th of *May*; the Lords Appellants and the Commons praying Judgment against them; whereas the King and Queen, with the Lords *Nottingham*, *Derby*, &c. with a Majority of the House of

of Lords, laboured to save them: At length a Report being raised that there was an Infurrection in *Kent* and other Places, in Favour of Sir *Simon Burleigh*, Sentence of High Treason was passed on the said *Simon*, and he was Beheaded on *Tower-Hill*: * Sentence in like Manner was passed upon *John Beauchamp*, *James Baroverse*, and *John Salisbury*; of whom the two former were beheaded on *Tower-Hill*, and the last was drawn and hanged at *Tyburn*.

* See an Account of his Advancement and Greatness, *Holling. Vol. 3. p. 464.*

The same Day the Bishop of *Chichester* was condemned for High Treason, but on Account of his Station was pardoned, and banished to *Cork* in *Ireland*.

The Publishers of the two last Volumes of Trials give us no Notice, that the Proceedings against these great Men, was during a prosperous Rebellion, and would insinuate that they were legally put to Death; whereas nothing seems to be further from the Truth; for our *English* Historians inform us, That the discontented Barons taking Advantage of the King's Minority, compelled him to appoint several of their own Number to enquire into the Conduct of his Ministers and Officers, with a Power of displacing them at Pleasure, and filling up the vacant Posts; whereby his Majesty became a Cypher; but the King arriving near *Man's Estate*, and disdaining to submit to all their Encroachments on his Prerogative, they broke out into open Rebellion, and drew over the Duke of *Gloucester*, the King's Uncle, to their Party, with the Earl of *Derby*, Son to the Duke of *Lancaster*, another of the King's Uncles, who had given sufficient Indications of his ambitious Views towards the Crown: And though *Lancaster* was at this Time beyond Sea, and never met with an Opportunity of seizing the Crown himself, yet he so well instructed the Earl of *Derby*, his Son, that after his Father's Death he actually deposed his Cousin King *Richard*, and usurped his Throne.

The Relation we meet with in History of this Rebellion, informs us, That the Malecontents, amounting

amounting to Forty Thousand Men, advanced as far as *Highbate*; and when the King sent to demand what they would have, the Duke of *Gloucester*, the Earl of *Derby*, and some of the Chiefs attended his Majesty at *Westminster*, demanding nothing less than the dismissing all his Principal Ministers and Judges. The King was not so terrified by their Numbers, but he reprehended them for levying War against their Sovereign; though the Earl of *Derby* afterwards defeating the King's Forces under the Command of the Duke of *Ireland*, they in plain Terms threatened to depose his Majesty, if he did not comply with their Demands. They also compelled him to call a Parliament, having now a Force sufficient to influence the Elections of the Commons, who proved so very tame and subservient to the Will of the Barons, that they never attempted to oppose the exorbitant Power their Lordships had assum'd, but suffered them to Impeach, Accuse, and Execute whom they pleased, without interposing in the Matter.

And so unjust and unmerciful were the Proceedings of this Parliament, that their Acts and Attainders were all reversed in the same Reign, *viz.* 21 *Rich. II. Cap. 2.* in regard of the Force put upon the King, and the Arbitrary and Unparliamentary Proceedings against his Ministers. And if we had not the concurrent Testimony of all our best Historians, that these Gentlemen were illegally put to Death, and sacrificed to a rebellious Faction through the Iniquity of the Times; yet from their own Relation it evidently appears, that the Process against them was erroneous; for they were neither Indicted or Impeached by the Commons, but by five Lords of their own Number; so that the Barons were both Prosecutors and Judges in their own Cause; for which Reason alone this Proceeding can never be made a Precedent for future Times.

The TRIAL of Sir JOHN PERROT, Lord Deputy of Ireland, for High Treason, April 27. 34 Eliz. 1592. in Westminster-Hall, by Virtue of a Commission of Oyer and Terminer, directed to the Lord Chamberlain, the Lord Buckhurst, Sir Robert Cecill, Secretary Woolley, Mr. Fortescue, the Master of the Rolls, Sir Edmund Anderson, Lord Chief Justice of the Common Pleas, Justice Periam, Justice Gawdie, Justice Fenner and Mr. Rockeby, one of the Masters of her Majesty's Court of Request.

The Trial of
Sir John Perrot,
for High Treason.

THE Prisoner being brought to the Bar of the Court of King's Bench, was arraign'd upon two Indictments; the first whereof charges that the said Sir John Perrot on the 31st of January in the 30th Year of the Queen, *A. D.* 1587. did falsely and traiterously imagine and conspire to depose her Majesty, and take away her Life, to cause great Slaughter in her Realm, and to raise a Rebellion in *England* and *Ireland*, and that he did invite a foreign Power to invade the two Realms.

Page 16.
The first Indictment.

That he receiv'd treasonable Letters from *James Eustace* Viscount *Baltinglas*, then at *Madrid*, by *Dennis Oroughan* an *Irish* Priest, and that he sent treasonable Letters to the said Viscount by the same Hand.

That whereas the Queen in the 27th of her Reign, wrote to the Prisoner, that he should not proceed in any Matters of Government, without the Advice of her Council in *Ireland*, advising him to take this Intimation dutifully. The Prisoner, shortly after reading the said Letters to the Archbishop of *Dublin*, in a great Fury said, *If*
she

she will use Men thus, she will have cold Service, and one Day she will have need of me.

That in the 29th Year of the Queen he did maintain Traitors, neglecting to bring them to Justice, That Pope Gregory XIII. and the King of *Spain*, preparing to invade *England*, Sir *John* sent Letters to the King of *Spain*, promising him Aid and Assistance; which Letters were sent by *Dennis Oroughan*, who receiv'd several Sums of Money of Sir *John* for that Service; and that he incited Sir *Bryan Orurke* to raise a Rebellion in *Ireland*.

The second
Indictment.

Page 17.

The second Indictment Charges that the said Sir *John* on the 15th of *May*, in the 27th of the Queen, being at *Dublin*, receiv'd Letters from *Alexander Duke of Parma*, desiring him to Aid and Assist the King of *Spain*, and that on the twentieth and thirtieth Days of *June*, in the 28th of the Queen, he conferr'd with Sir *William Stanley* to effect his traiterous Purposes.

The Prisoner having made great Protestations of his Innocence, and suggested that though he was of a cholorick Temper, and might have used some passionate Expressions, yet he had always continued Loyal and Affectionate to her Majesty, pleaded *Not Guilty* to both Indictments.

The Sheriff being commanded to return his Precept for summoning a Jury, twenty-four appear'd; whereupon the Prisoner demanded of the Court, how many of the Jurors he might challenge? It was answered, that he might challenge any of them against whom he had Cause of Challenge; but the Court seem'd to intimate, he might challenge none peremptorily, as is the Custom at this Day. Whereupon he challenged but two, and twelve were sworn.

Then Proclamation was made for the Witnesses to appear, and give Evidence against the Prisoner, and the Indictment was opened by Serjeant *Puckering*, with the Nature of the Evidence: Wherein he charges him with several undutiful and scandalous Expressions towards her Majesty, as saying at the Council-Table in *Dublin*, *Stick not so much*
upon

upon the Queen's Letters of Commandment, for she may command what she will: But we will do what we list.

That Sir John calling a Parliament in Ireland, moved to suppress the Cathedral Church of St. Patrick; and the Queen by her Letters forbidding it, he said, *God's Wounds, I think it strange she should use me thus.* Page 18.

That the Queen commanding him to admit Mr. Errington Clerk of the Exchequer, he said, *This fiddling Woman troubles me out of Measure, God's Wounds, He shall not have the Office, I will give it to Sir Thomas Williams.* Which last Words were proved by the Oath of Philip Williams.

That her Majesty reproving him in her Letters on several Complaints made against him, he said, *It is not safe for her Majesty to break such unkind and sour Bread to her Servants.*

That Philip Williams, his Secretary, writing in his Master's Name to her Majesty, said, he would be sacrificed for her; which Sir John bid him strike out, adding, *He had little Cause to be sacrificed for her: He could not forget her since the Time she denied him Justice on some of her Guards, who had murdered his Men.*

That when Philip Williams said, on the Spanish Invasion, he hop'd God would bless us for her Majesty's Sake; Sir John answered, *God's Wounds, and why for her Sake? never the more for her Sake.* This was sworn in Williams's Deposition. Whereupon Sir John alledg'd that Williams was his mortal Enemy, and a lewd profligate Fellow, desiring he might be brought Face to Face; but this was objected to by Popham the Attorney General, who alledged that he was imprison'd in the Tower for Treason, and could not be produc'd (though his Deposition was made use of against the Prisoner.)

That the Queen writing to him to look well to his Charge at the Time of the Spanish Invasion, Sir John said, *Oh silly Woman, now she shall not curb me, she shall not rule me, now God's Lady*
Dear,

Dear, I shall be her white Boy now again : Doth she think to rule me now ?

That upon *John Garland's* bringing him a Letter from her Majesty, he said, *God's Wounds, this it is to serve a base Bastard Piss-Kitchen Woman : If I had serv'd any Prince in Christendom, I had not been so dealt withal.* That *Sir John* talking with *Dillon*, Clerk of the Council, said, *If her Majesty should be distressed, dost not thou think that I am the fittest Man in England to have the keeping of her Body.*

Page 19, 20. Then Mr. Attorney General charged the Prisoner with keeping several Traitors and Irish Priests from Punishment.

And *Sir Dennis Oroughan* was afterwards produced as an Evidence against the Prisoner, together with *Rice Thomas*, *Margaret Leonard*, the Wife of *Hugh Mackbeugh*, and *John London* ; *Rice Thomas* and *Margaret Leonard* depos'd, that *Sir Dennis Oroughan*, having brought treasonable Letters from *Spain* (one whereof was for *Sir John*) was committed to *Dublin-Castle*, but was afterwards released by *Sir John*, maintain'd by him for half a Year, and admitted to the most intimate Familiarity. And *Dennis* being called in a second Time depos'd, that *Sir John* delivered him two Letters for the King of *Spain*, importing that he would assist him in reducing *England* and *Ireland*, provided he might have *Wales*, which he could enjoy as the Princes of *Germany* did their Dukedoms, (*viz.*) *Jure Regio*, to be a Prince Lord himself, and not to depend on any other, and with the Letters gave the said *Dennis* fifty Pounds. And the said *Dennis* further depos'd, that *Sir John Perrot* and *Sir Brian Orurke* (a famous Rebel) were Confederates in the Parliament, and swore to promote the King of *Spain's* Invasion of *England*.

Page 21. It is said to be proved also, (but not by whom) that the Prisoner was in a Conspiracy with *Sir William Stanly*, a notorious Rebel, and that he sent and received Letters from the Duke of *Parma*, the King of *Spain's* General in the Low Countries,

tries. And lastly, That Sir *John* being about to come to *England*, he endeavoured to procure a Pardon for his Actions before he would come over, which was an Evidence of his Guilt.

Sir *John* in his Defence observed, that the most material Witnesses against him were *Irishmen*, and that it was easy to procure a hundred such, who for a trifling Reward would swear whatever they were taught: That others of them he had punish'd for their Faults, or upon other Accounts bore Malice against him, and appeal'd to the Court if it was probable one that had shewn himself a zealous Protestant for forty Years and upwards, should be a Confederate with Papists and Rebels, concluding with Protestations of his Innocence and Affection for her Majesty. Page 23.

Sir *John* being brought to the Bar again on *Friday* the 26th of *June*, to receive Sentence, and it being demanded of him what he had to say, why Sentence of Death should not pass upon him as a Traitor, repeated Part of his former Defence, and intimated that her Majesty believ'd him Innocent, by her not calling him to Judgment sooner; for which Suggestion he was severely reprimanded by the Court, and then Sentence was pass'd upon him as a Traitor.

After which he desired the Court to move her Majesty, that if out of her abundant Mercy, she vouchsaf'd to pardon his Life (of which he seems to have had some Assurance) that he might have a better Room; for his Lodging was so strait that there was only room for his Bed and Table, that it was without Air, and he was never suffered to stir abroad. To which the Lord Chamberlain answered, it was good enough for such a one as he was. He also petition'd, that his Estate might go to his Son. Sir *John* soon after fell sick, and died in Prison the *September* following; and the Queen was pleas'd to permit his Estate to go to his Son, (who married the Earl of *Essex's* Sister) as he desir'd. Page 24.

The Trial of
Sir Christopher
Blunt, &c.

The TRIAL of Sir CHRISTOPHER BLUNT, Sir CHARLES DAVERS, Sir JOHN DAVIS, Sir GILLY MERRICK, and HENRY CUFF, for High Treason, by Virtue of a Commission of Oyer and Terminer, directed to the Earl of Nottingham, Lord Admiral, the Lord Hunfdon, Lord Chamberlain, Mr. Secretary Cecil, Lord Chief Justice Popham, Sir John Fortescue, Chancellor of the Exchequer, Mr. Secretary Herbert, and the rest of the Judges, on the 5th of March, the 43d of Eliz. A. D. 1600.

Page 25.

THIS Proceeding, which is call'd a Trial, consists of little more than an Arraignment on a common Indictment for High Treason. Whereunto the Prisoners would have confessed Part, and pleaded guilty to the rest; that is, as Sir *John Blunt* explain'd their Sense, they acknowledg'd themselves guilty of conspiring and intending to force the Queen, and require her to consent to certain Conditions and Alterations of Government, but that they intended no personal Harm to the Queen herself, and therefore could not confess the whole Indictment, which charg'd, *That they intended and compass'd the Death and Destruction of the Queen.* To which the Lord Chief Justice answered, that wherever the Subject rebell'd, or rose in a forcible Manner, to overrule the Royal Will and Power of the King, he did, in Construction of Law, intend to deprive the King both of Crown and Life, for the Law judg'd not of the Fact by the Intent, but of the Intent by the Fact.

Whereupon Sir *Christopher Blunt*, Sir *Charles Davers* and Sir *John Davis* said, that now they were better inform'd, they were sorry they had given

given the Court any Trouble, and not confessed the Indictment at first. However the Jury being sworn, the Queen's Counsel produced their Evidence, which consisted chiefly of the Prisoners Confessions, and the Evidence given at the Trial of the Earls of *Essex* and *Southampton*; which see in the *Edition of Folio Trials*, Vol. I. p. 190.

The Evidence produced against *Henry Cusse*, was the Confession of Sir *Charles Davers*, who charged him with debating on several Enterprizes proposed, and giving his Opinion for attempting the Court; and the Earl of *Essex's* Confession, which charged him with being the principal Instigator of their Treasons; and the Evidence of Sir *Henry Nevil*, which described the whole Part that *Cusse* acted.

Cusse alledged in his Defence, that if his being in *Essex-house* the Day of the Rebellion, was Treason, they might charge a Lion that was kept within a Grate with Treason; and as for the Consultation in *Drury-house*, it was not Treason. To which the Solicitor General answered, that he was not kept in *Essex-house* by Force, but came thither freely and voluntarily; and that the Destruction of the Queen was, in the Eye of the Law, intended by their Consultation in *Drury-house* to put a Force upon her; and that his marching into the City, was a carrying on the Enterprize against the Court.

*Fleming Sol-
licitor General*

Lord Chief Justice. If many do conspire to execute Treason against a Prince in one Manner, and some of them execute it in another Manner, their Act (though differing in the Manner) is the Act of all them who conspire, by Reason of the general Malice of the Intent.

By the Evidence produc'd against Sir *Gilly Merrick* it appeared, that he acted the Part of Captain or Commander over *Essex-house*, took upon him the Charge of keeping it, and making it good as a Place of Retreat for those who sallied out into the City; that he fortified and barricaded it, making Provision of Muskets, Powder, Ball and other Ammunition, and Weapons for de-

fending it, and was the most notorious Actor against the Queen's Forces brought by her Majesty's Lieutenant to reduce it. It was also proved, that some few Days before the Rebellion, he had with great Violence displaced certain Gentlemen, who lodged close to *Essex-house*, and posted several of the Lord *Essex's* Followers and Accomplices there. And it was farther prov'd, that the Afternoon before the Rebellion, *Merrick* and a great many others, who were all afterwards in the Action, procured the Play, call'd the Deposing of *Richard* the Second, to be acted; and when the Players told them it was an old Play, and they should lose by acting it, because few would come to it, forty Shillings extraordinary was given them for acting it, and it was play'd.

Upon which Evidence the Jury found them all guilty, and they received Sentence of Death, as in Cases of High Treason, being executed afterwards at *Tyburn* in the usual Manner, except *Sir Christopher Blunt* and *Sir Charles Davers*, who being nobly descended, says my Author, were beheaded on *Tower-Hill*.

On the 13th of *March*, *Merrick* and *Cusse* were drawn to *Tyburn*, when they were come to the Gallows *Cusse* spake as follows:

' I am brought hither to pay my last Debt to
' Nature, and to suffer for Crimes committed
' against God, my Prince, and my Country; and
' as I cannot but discern, the infinite Justice of
' God, when I reflect on the Multitude of my
' Offences; so can I as little doubt, but the Seve-
' rity of my Punishment will make way for my
' Admission into the Embraces of his Mercy; we
' are expos'd here as sad Spectacles and Instances
' of Human Frailty; the Death we are to undergo
' carries a frightful Aspect, (for even the best of
' Men desire Life) besides that, it is as full of Ig-
' nominy as Terror; however, 'tis the Portion of
' the best of Saints, with whom I assuredly hope
' to rise again in Christ; not that I would be
' thought by any one, to depend on my own
' Merits, which I absolutely discard, but I place
' my

‘ my entire Trust and Dependance in the Attone-
‘ ment of my Saviour’s Blood. I am fully per-
‘ suaded, that whoever feels a secret Consolation
‘ within himself, whilst he groans under the In-
‘ fliction of any earthly Punishment, is chastised by
‘ God with a paternal Tenderness, and not in an
‘ angry and judicial Way.

‘ But to come to the Cause of my Death ; there
‘ is no Body here can possibly be ignorant what a
‘ wild Commotion was raised on the 8th of *Fe-*
‘ *bruary*, by a particular great, but unadvised
‘ Earl. I do here call God, his Angels, and my
‘ own Conscience to witness, that I was not in the
‘ least concerned therein, but was shut up that whole
‘ Day within the House, where I spent the Time
‘ in very melancholy Reflections.’ Here he was
interrupted, and advised not to disguise the Truth
by Distinctions, nor palliate his Crime by specious
Pretences. Then he proceeded, ‘ I confess ’tis a
‘ Crime as black as Treason, for a Subject who
‘ has lost his Prince’s Favour, to force his Way to
‘ the Royal Presence ; for my own Part, I never
‘ persuaded any Man to take up Arms against the
‘ Queen, but am most heartily concerned for be-
‘ ing an Instrument in bringing that worthy Gen-
‘ tleman, Sir *Henry Nevil*, into Danger, and do
‘ most earnestly entreat his Pardon. And where-
‘ as I said, that One and twenty Aldermen, out
‘ of the Twenty-four were devoted to the Earl’s
‘ Interest, I only meant that they were his Friends,
‘ and ready to serve him, but not in the way of
‘ open Rebellion.’ Here he was again interrupt-
ed, and so began to apply himself to his Devotions,
which he managed with a great deal of Fervour,
and then making a solemn Profession of his Creed,
and asking Pardon of God and the Queen, he was
dispatched by the Executioner.

After him Sir *Giles Merrick* suffered in the
same Way, and with a most undaunted Resolution ;
for as if he was weary of living longer, he once or
twice interrupted *Cuffe*, and advised him to spare
a Discourse, which however rational, was not very
seasonable ; when he was taking Leave of the

World, he clear'd the Lord *Mountjoy* from having any Acquaintance with the Design; and entreated those Noblemen that stood by, to intercede with the Queen, that there might not be any further Proceedings against such, as had unwarily espoused this unhappy Cause.

Five Days after, *March* 18, Sir *Christopher Blunt*, and Sir *Charles Davers*, were executed on *Tower-Hill*: *Davers* bore his Death with a most Christian Calmness and Composure, having first crav'd God's Pardon, and the Queen's, to whom he wish'd all Prosperity; as also the Lord *Grey's*, who was there present, to whom he acknowledged he had been ill affected, not from any Injury he had suffered from him, but purely on the Earl of *Southampton's* Account, to whom the Lord *Grey* professed an absolute Enmity.

Page 27.

When Sir *Christopher Blunt* came upon the Scaffold, he express'd himself in the following Manner: ' My Lords, and you that be present, ' although I must confess, that it were better fitting the little Time I have to breathe, to bestow the same in asking God forgiveness for my manifold and abominable Sins, than to use any other Discourses, especially having both an Imperfection of Speech, and God knows, a weak Memory, by reason of my late grievous Wound; ' yet to satisfy all those that are present what Course hath been held by me in this late Enterprize, because I was said to be an Instigation, and Setter on of the late Earl, I will truly, and upon the Peril of my Soul speak the Truth: It is true, that the first Time that ever I understood of any dangerous Discontentment in my Lord of *Essex*, was about three Years ago at *Wanstead*, upon his coming one Day from *Greenwich*; at that Time he spake many Things unto me, but descended into no Particulars, but in general Terms. After which Time he never brake with me in any Matter tending to the Alteration of the State, (I profess before God) until he came into *Ireland*, other than I might conceive he was of an ambitious and discontented Mind;

' Mind ; but when I lay at the Castle of *Thomas*
 ' *Lee*, called *Reban*, in *Ireland*, grievously hurt,
 ' and doubted of my Life, he came to visit me,
 ' and then began to acquaint me with his Intent.
 As he thus spake, the Sheriff began to interrupt
 him, and told him, the Hour was past; but my
 Lord *Grey*, and Sir *Walter Raleigh*, Captain of
 the Guard, called to the Sheriff, and required
 him not to interrupt him, but to suffer him quietly
 to finish his Prayers and Confessions; Sir *Christo-*
pher Blunt said, ' Is Sir *Walter Raleigh* there ?'
 Those on the Scaffold, answered, Yea; to whom
 Sir *Christopher Blunt* spake on this Manner:

' Sir *Walter Raleigh*, I thank God that you are
 ' present, I had an infinite Desire to speak with you,
 ' to ask you Forgiveness e'er I died, both for the
 ' Wrong done you, and for my particular ill Intent
 ' towards you: I beseech you forgive me.' Sir *Wal-*
ter Raleigh answered, that he most willingly for-
 gave him, and besought God to forgive him, and
 to give him his divine Comfort; protesting before
 the Lord, that whatsoever Sir *Christopher Blunt*
 meant towards him, for his Part, he never had
 any ill Intent towards him; and further said to
 Sir *Christopher Blunt*, I pray you, without Of-
 fence, let me put you in Mind, that you have been
 esteem'd not only a principal Provoker and Per-
 suader of the Earl of *Essex* in all his undutiful
 Courses, but especially an Adviser in that which
 hath been confessed of his Purpose to transport a
 great Part of her Majesty's Army out of *Ireland*
 into *England*, to land at *Milford*, and thence to
 turn it against her sacred Person. You shall do
 well to tell the Truth, and to satisfy the World.
 To which he answered thus. ' Sir, if you will
 ' give me Patience, I will deliver a Truth,
 ' speaking now my last, in the Presence of
 ' God, in whose Mercy I trust.' And then he
 directed himself to my Lord *Grey*, and my Lord
Compton, and the rest that sat on Horseback
 near the Scaffold. ' When I was brought from
 ' *Reban* to *Dublin*, and lodged in the Castle,
 ' his Lordship and the Earl of *Southampton* came

to Visit me; and to be short, he began thus
 plainly with me, That he intended to transport
 a choice Part of the Army of *Ireland* into *En-*
gland, and land them in *Wales*, at *Milford* or
 thereabouts; and so securing his Descent, there-
 by would gather such other Forces, as might en-
 able him to march to *London*. To which I
 protest before the Lord God, I made this, or
 the like Answer; That I would that Night con-
 sider of it, which I did. And the next Day
 the Earls came again; I told them that such an
 Enterprize, as it was most dangerous, so would
 it cost much Blood, and I could not like of it;
 besides many Hazards, which at this Time I
 cannot remember unto you, neither will the
 Time permit it: But I rather advised him to
 go over himself with a good Train, and make
 sure of the Court, and then make his own Con-
 ditions. And although it be true, that (as we
 all protested in our Examinations and Arraign-
 ments) we never resolved of doing Hurt to her
 Majesty's Person; (for in none of our Consulta-
 tions was there set down any such Purpose) yet,
 I know, and must confess, if we had failed of
 our Ends, we should (rather than have been
 disappointed) even have drawn Blood from her-
 self. From henceforward he dealt no more with
 me herein, until he was discharged of his Keep-
 er at *Essex-house*. And then he again asked my
 Advice, and disputed the Matter with me; but
 resolved not. I went then into the Country,
 and before he sent for me, (which was some
 ten Days before his Rebellion) I never heard
 more of the Matter.

And then he wrote unto me to come up, upon
 Pretence of making some Assurance of Land, and
 the like; I will leave the rest unto my Confes-
 sions, given to that honourable Lord Admiral,
 and worthy Mr. Secretary, (to whom I beseech
 you, Sir *Walter Raleigh*, commend me) I can
 requite their favourable and charitable Deal-
 ing with me, with nought else but my Prayers
 for them, and I beseech God of his Mercy to
 save

' save and preserve the Queen, who hath given
 ' Comfort to my Soul, in that I hear she hath
 ' forgiven me all but the Sentence of the Law,
 ' which I most worthily deserved, and do most
 ' willingly embrace; and hope that God will have
 ' Mercy and Compassion on me, who have offen-
 ' ded him as many Ways, as ever sinful Wretch
 ' did; I have led a Life so far from his Precepts,
 ' as no Sinner more. God forgive it me, and
 ' forgive me my wicked Thoughts, my licentious
 ' Life, and this right Arm of mine, which (I
 ' fear me) hath drawn Blood in this last Action.
 ' And I beseech you all bear witness that I die a
 ' Catholick; yet so, as I hope to be saved only by
 ' the Death and Passion of *Christ*, and by his Me-
 ' rits, not ascribing any Thing to mine own Works.
 ' And I trust you are all good People, and your
 ' Prayers may profit me. Farewel my worthy Lord
 ' Grey, and my Lord *Compton*, and to you all;
 ' God send you both to live long in Honour. I
 ' will desire to say a few Prayers, and embrace
 ' my Death most willingly.

With that he turned from the Rail towards the
 Executioner; and the Minister offering to speak
 with him, he came again to the Rail, and be-
 sought that his Conscience might not be troubled,
 for he was resolved, which he desir'd for God's Sake.
 Whereupon Commandment was given, that the
 Minister should not interrupt him any further.
 After which he prepar'd himself to the Block,
 and so died very manfully and resolutely.

The TRIAL of GEORGE SPROT in
Scotland, for High Treason, in Conspi-
ring with JOHN Earl of GOWRY,
to murder King James I. August 12.
6 Jac. I. A. D. 1608.

THIS Proceeding in the fifth Volume of *The Trial of*
 the Trials is a little imperfect, leaving the *George Sprot*
 Reader very much in the Dark as to the Conspi- *for High Treason.*

Page 28.

* *Spotswood's*
Hilt. of the
Church of
Scotland,
p. 509.

racy, which *Sprot* was condemned for concealing; which I shall endeavour to clear up from the same Author the Editors of the *Folio* have referred to, (*viz.*) Archbishop *Spotwood*.

He relates that *George Sprot*, a Notary * in *Aymouth*, being suspected from some Words he let fall, and Papers that were found upon him, to be privy to the Conspiracy of the late Earl *Gowrie* and *Robert Logane* of *Restalrig*, to murder King *James*, was apprehended and committed to Prison, where being touch'd with Remorse for the long Concealment of the said Plot, he confess'd that he was acquainted with several Letters that pass'd between the said *Logane* and Earl *Gowrie*, concerning the said Treason in the Year 1600: Which Letters *James Bour*, call'd *Laird Bour*, Servitor to *Logane* (and who was employ'd to concert Matters between him and the Earl) had in keeping, and shew'd to *Sprot* at *Fast-Castle*: The Bishop's further Relation is at the End of the Trial.

The Indict-
ment.

George Sprot being brought to his Trial on the 12th of *August*, 1608. the King's Advocate, Sir *Thomas Hamilton*, Knt. preferr'd an Indictment against him of the Tenor following, (*Viz.*) That whereas the late *John*, Earl *Gowrie*, had in the Month of *July* 1600, treasonably conspir'd to murder his Majesty King *James*, and imparted that devilish Purpose to *Robert Logane* of *Restalrig*, who approv'd the same, and readily undertook to be Partaker thereof: The same coming to *Sprot's* Knowledge at the Times and in the Manner after specified, he most treasonably conceal'd the same, and was Art and Part thereof in Manner following: First, in the said Month of *July*, 1600, after he had perceiv'd and known that divers Letters and Messages had pass'd between the said Earl *Gowrie* and the said *Robert Logane*; being in the House of *Fast-Castle*, he saw and read a Letter written by the said *Robert*, to the said Earl *Gowrie*, of the Tenor following:

' My

‘ My Lord, my most humble Duty and Service heartily remember’d at the Receipt of your Lordship’s Letter, I am so comforted that I can neither utter my Joy, nor find my self sufficiently able to requite your Lordship with due thanks; and perswade your Lordship, in that Matter, I shall be as forward for your Lordship’s Honour, as if it were mine own Cause. And I think there is no living Christian that wou’d not be content to revenge that *Machiavelian* massacring of our dear Friends; yea, howbeit it should be to venture and hazard Life, Land, and all other Thing else; my Heart can bind me to take Part in that Matter, as your Lordship shall find better Proof thereof; but one Thing wou’d be done, namely, That your Lordship shou’d be circumspect and earnest with your Brother, that he be not rash in any Speeches touching the Purpose of *Padua*.’

And a certain Space after the Execution of the aforefaid Treason, the said *Robert Logane* of *Restalrig*, having desired the Laird of *Bour* to deliver to him the aforefaid Letter, or else to burn it; and *Bour* having given to you all Tickets and Letters which he then had, either concerning *Restalrig*, or others, to see the same, because he could not read himself, you abstracted the above-written Letter, and retain’d the same in your own Hands, and divers Times read it, containing farther in Substance, nor is formerly set down, according to the Words following:

‘ My Lord, you may easily understand that such a Purpose as your Lordship intendeth cannot be done rashly, but with Deliberation. And I think for my self, that it were most meet to have the Men your Lordship spake of ready in a Boat or Bark, and address them as if they were taking Pastime on the Sea in such fair Summer-time; and if your Lordship could think

' think good, either your self to come to my
 ' House of *East-Castle* by Sea, or to send your
 ' Brother, I shou'd have the Place very quiet
 ' and well provided, after your Lordship's Adver-
 ' tisement, where we should have no Scant of the
 ' best Venison can be had in *England*. And no
 ' others shou'd have Access to haunt the Place, du-
 ' ring your Lordship's being here, but all Things
 ' very quiet. And if your Lordship doubt of
 ' safe Landing, I shall provide all such Necessa-
 ' ries as may serve for your Lordship's Arrival
 ' within a Flight-shot of the House; and per-
 ' suade your Lordship you shall be as sure and
 ' quiet here, while we have settled our Plot, as if
 ' you were in your own Chamber: For I trust and
 ' am assur'd we shall have word within few Days
 ' from them your Lordship knoweth of, for I
 ' have Care to see what Ships come home by.
 ' Your Lordship knoweth I have kept the Lord
 ' *Bothwell* quietly in this House in his greatest Ex-
 ' tremity; say both King and Council what they
 ' like, I hope (if all Things come to pass as I trust
 ' they shall) to have both your Lordship and his
 ' Lordship at one good Dinner afore I die. *Hæc*
 ' *jocose*, to animate your Lordship: I doubt
 ' not, my Lord, but all Things shall be well.
 ' And I am resolved whereof your Lordship shall
 ' not doubt of any Thing on my Part; yea to pe-
 ' ril Life, Land, Honour, and Goods; yea, the
 ' Hazard of Hell shall not affray me from that;
 ' yea, altho' the Scaffold were already set up.
 ' The sooner the Matter were done, it were the
 ' better, for the King's Buck-hunting will be
 ' shortly, and I hope it shall prepare some dainty
 ' Cheer for us to dine against the next Year. I
 ' remember well my Lord, and I will never for-
 ' get, so long as I live, that merry Sport which
 ' your Lordship's Brother told me of a Noble-
 ' man at *Padua*: For I think that a Parasceve to
 ' this Purpose. My Lord, think nothing that I
 ' commit the Secrecy hereof, and Credit, to
 ' this Bearer; for I dare not only venture my
 ' Life,

‘ Life, Lands, and all other Things I have else,
 ‘ on his Credit, but I durst hazard my Soul in his
 ‘ Keeping, if it were possible in earthly Men; for
 ‘ I am so perswaded of his Truth and Fidelity.
 ‘ And I trow (as your Lordship may ask him, if it
 ‘ be true) he wou’d go to Hell-Gates for me: And
 ‘ he is not beguiled of my Part to him. And
 ‘ therefore I doubt not but this will persuade
 ‘ your Lordship to give him Trust in this Matter
 ‘ as to my self. But I pray your Lordship direct
 ‘ him home with all possible Haste, and give him
 ‘ strait Command that he take not a Wink of
 ‘ Sleep while he see me again, after he come
 ‘ from your Lordship. And as your Lordship de-
 ‘ fireth in your Letter to me, either rive or burn,
 ‘ or else send back again with the Bearer; for so
 ‘ is the Fashion, I grant.’

Which Letter, written every Word with the
 said *Robert Logane* his own Hand, was subscribed
 by him after his accustomed Manner, with this
 word

Restalrig.

And altho’ by the Contents of the said Letter
 he perfectly knew the Truth of the said treason-
 able Conspiracy, and that the said *Robert Logane*
 was privy thereto, as also by several other Letters
 that pass’d between *Gowry* and *Logane*, and by
 several Conferences between *Logane* and *Bour*, in
 his Prefence, concerning the said Treason; and
 was acquainted with it also by *Bour* himself, who
 was employ’d as a common Messenger between
Logane and *Gowry*, to carry on the said treason-
 able Correspondence, whereby his Knowledge,
 Guilt, and Concealment of the said Treason was
 undeniable; yet, for further Manifestation thereof, Page 31.
 about *July* 1602, the said *Logane* acquainted the
 Prisoner, that *Bour* told him he had been some-
 what rash in letting him see a Letter which came
 from *Gowry* to the said *Logane*, and desired the
 Prisoner to tell him what he understood by that
 Letter;

Letter; to whom the Prisoner said, he understood thereby, that he had been of *Gowry's* Conspiracy: And he answered, that whatever he had done, the worst was his own; and if the Prisoner wou'd swear, That he wou'd not reveal any Thing of the Matter, he shou'd be the best Sight that ever he saw, and in Token of further Recompence gave the Prisoner twelve Pounds of Silver: Nevertheless, the Prisoner, notwithstanding his perfect Knowledge of the whole Progress of the said Treason from the Beginning, treasonably conceal'd the same during the Lives of *Bour* and *Logane*, who liv'd till the Year 1606, being six Years after he knew of the said Conspiracy, and so was Art and Part of the said most detestable Treason, and of the Knowledge and Concealment thereof, and therefore ought to underlie and suffer the Pain of High Treason.

The Jury being impanell'd, his own Confessions, after he was apprehended, were produc'd against him, wherein he acknowledged himself guilty of the Facts contain'd in the Indictment, and again confess'd the same in open Court; whereupon the Jury brought him in Guilty, and Sentence was pass'd upon him as usual in the Courts of *Scotland*, viz.

Page 32.

That he shou'd be taken to the Market-Cross at Edinburgh, and there hang'd upon a Gibbet till he was dead, and thereafter his Head shou'd be stricken from his Body, his Body quarter'd and demean'd as a Traitor, his Head affix'd and set upon a Prick of Iron upon the highest Part of the Tollboth of Edinburgh, where the Traitor Gowrie, and others of the Conspirators Heads stand, and his whole Lands, Heritages, Tacks, Hedings, Rooms, Possessions, Goods and Geere to be forfeited and eschet to our Sovereign Lord his Use, for his treasonable and detestable Crimes above specified.

Sprot was accordingly executed the same Day, when he desir'd all People to beware of evil Company, and namely of the Society of those who

who are void of all Religion; and that this was the most glorious Day he ever beheld. In the midst of these Speeches he fell on his Knees, making a very pithy Prayer, in the Form following:

‘ O Father, how shall I call thee Father, that
‘ am so unworthy to be call’d thy Son? I have
‘ wandred astray like a lost Sheep, and thou of
‘ thy Mercy hast brought me home unto thee,
‘ and hast preserv’d my Life from many Dangers
‘ until this Day, that I might reveal these hidden
‘ and secret Mysteries to mine own Shame, and
‘ thy Glory; thou hast promis’d, that whensoever
‘ a Sinner from his Heart will repent and call
‘ to thee, that thou wilt hear him, and grant him
‘ Mercy?’

And thus he continu’d Praying some Time, and having ended, *Sprot* stood up and made divers Requests: First, that what he had deliver’d by this Confession on the Scaffold, might be put into his Process, that the World might take Notice of it: Secondly, That such as were present (as they might have Opportunity) would be Suitors unto the King, that his Majesty would forgive him this Offence; for the which he said, *He craved Pardon of God, of his Sovereign, and the World.* And thirdly, He desir’d those of the Ministry which were present, that wheresoever they came, they would proclaim in the Pulpit his Confession of his Crime, his Sorrow for the same, and his full Hope that God would pardon him.

And to the End that this might be perform’d, he took the Hands of such Ministers as stood near about him, so binding a Promise on them. And here being told by the said Ministers, and other Persons of Quality, that being so near his Departure out of the World, it concerned him to speak nothing but the Truth, and that upon the Peril of his Soul; he answer’d, that to the End they should know, that he had spoken nothing but the Verity, and that his Confession was true in every
Respect,

Respect, he would (at the last Gasps) give them some apparent Token for the Confirmation of the same; then fitting himself to the Ladder, the Executioner came to him, and as the Manner is, asking Forgiveness of him: *With all my Heart, saith he, for you do but your Office, and it is the Thing I desire; because suffering in my Body, I shall in my Soul be joined unto my Saviour.* After which he went up the Ladder, and sung the Sixth Psalm with a loud Voice, and ratified his former Confession, then fastened a Cloth to his Eyes, and was cast over the Ladder; when he had hung a pretty Space, he lifted up his Hands, and clapp'd them together three Times, to the Admiration of the Beholders.

The Attempt of Earl *Gowrie* to murder the King, for which *Sprott* was condemn'd and executed as an Accomplice with him, is related by Archbishop *Spotswood* as follows:

' The King having been hunting, he says, after a short Chase and a Buck kill'd, made towards *Perth*, accompany'd with the Duke of *Lenox*, the Earl of *Marre*, and a few Gentlemen more, all in their hunting Coats. By the Way, the King did ask the Duke of *Lenox* if he had known Mr. *Alexander* (for the Duke had married his Sister) at any Time troubled or dis-temper'd in his Wits? The Duke answering, That he never had known any such Thing in him, the King insisted no farther. Being come to the Town, the Earl did meet him, and was noted by all the Company to be in some Trouble of Mind (the very Imagination of the Fact he went about perplexing his Thoughts), but he colour'd all with the Want of Entertainment, saying, that he did not expect the King, and that his Dinner was not prepar'd. The King wishing him not to trouble himself with those Thoughts, because a little Thing wou'd content him, and for the Noblemen, a Part of his Dinner wou'd suffice them. They discoursed of Hunting and other common Matters, till Meat
' was

‘ was dress’d. How soon the King had taken a
 ‘ little Refreshment, and the Lords were placed
 ‘ at a Table in another Room, Mr. *Alexander*
 ‘ did sound in the King’s Ear, that the Time was
 ‘ fit, whilst the Lords were at Dinner, to go and
 ‘ examine a certain Stranger; at which Word the
 ‘ King arose, and went up Stairs, Mr. *Alexander*
 ‘ going before him; the King did call Sir *Tho-*
 ‘ *mas Areskin* (afterwards Earl of *Kelly*) to follow
 ‘ him; but Mr. *Alexander* turning at the Door,
 ‘ after the King was enter’d, said, that the King
 ‘ will’d him to stay below: Whereupon Sir *Tho-*
 ‘ *mas* went back. Thus the Door was shut; Mr.
 ‘ *Alexander* guiding him to an inner Room, the
 ‘ King did perceive a Man standing alone; where-
 ‘ upon he asked if that was the Man? Nay, said
 ‘ Mr. *Alexander*, there is another Business in
 ‘ Hand; and with that Word covering his Head,
 ‘ you remember, said he, how you used my Fa-
 ‘ ther, and now must you answer for it. Your
 ‘ Father! answer’d the King; I was not the Cause
 ‘ of his Death; it was done in my Minority, by
 ‘ Form of Justice. But is this your Purpose? and
 ‘ have you train’d me hither to murder me? Did
 ‘ you learn this Lesson of Mr. *Robert Rollock* your
 ‘ Master? Or think you, when you have done your
 ‘ Wills, to go unpunish’d? Mr. *Alexander* stricken
 ‘ with the Speeches, and the Man, who was plac’d
 ‘ there to assist him, trembled for fear, desir’d
 ‘ the King to be quiet, and make no Noise, for
 ‘ that he wou’d go speak with his Brother, and
 ‘ pacify him. This said, he went down a back
 ‘ Way, as it seem’d, to the Court below.

‘ Whether he did meet with his Brother at
 ‘ that Time, or not, is unknown, but his Stay was
 ‘ short, and when he return’d, he said to the
 ‘ King, There is no Remedy, you must die; then
 ‘ making as tho’ he wou’d tie the King’s Hands,
 ‘ they fell a wrestling, and the King drawing him
 ‘ by Force to a Window in the Corner, that look’d
 ‘ towards the Street, as he espy’d the Earl of
 ‘ *Marre*, cried *Help Earl of Marre, Help*; the
 ‘ Voice

' Voice and Words were discern'd by all the Lords
 ' and Gentlemen, who thereupon ran to seek the
 ' King by the Way that went up ; but the Doors
 ' being shut, there was no Entry that Way till the
 ' same was broke by Force, which took up a large
 ' Time ; upon the first Cry, Sir *Thomas Areskin*
 ' suspecting Treason, did flee upon *Gowry*, and
 ' taking him by the Gorge, said, *Thou art the*
 ' *Traitor* ; but they were quickly sunder'd by his
 ' Servants that stood by. The first that came to
 ' the King was a Page, call'd *John Ramsey*, who
 ' falling upon a back Passage, by which the Trai-
 ' tors, after the Deed committed, had purposed
 ' to escape, found the King and Mr. *Alexander*
 ' struggling ; the King calling to him and bidding
 ' him strike the Traitor, he gave Mr. *Alexander*
 ' two or three Wounds with his Dagger, and so
 ' parted him from the King. The Man, who was
 ' plac'd there to assist Mr. *Alexander*, did steal
 ' away secretly, and he himself perceiving that
 ' the Treason was discover'd, made down the
 ' Stairs, where being encountred by Sir *Thomas*
 ' *Areskin*, and ask'd how the King was, because
 ' he gave no direct Answer, and only said, That
 ' he took God to Witness, that he was not in the
 ' Fault, he thrust him through the Body, and
 ' kill'd him outright,

' Sir *Thomas* was follow'd by *Hugh Hereife*,
 ' Doctor of Medicine, and a Foot Boy, named
 ' *Wilson*, who seeing the King safe, were not a
 ' little joy'd, and placing him in a little Room,
 ' and shutting the Door, they prepar'd to defend the
 ' Entry ; *Gowry*, accompany'd with 3 or 4 Servants,
 ' breaketh presently into the Chamber, and with
 ' his two Swords, one in each Hand, puts them
 ' all to their Shift, and had undoubtedly over-
 ' thrown them, but that one of the Company
 ' crying, *You have kill'd the King our Master,*
 ' *and will you also take our Lives ?* he became
 ' astonish'd, and setting the Points of his two
 ' Swords to the Earth, as if he minded to cease
 ' from any more Fight, he was instantly stricken
 ' by

‘ by the Page with a Rapier which pierced the
‘ Heart, so as he fell down dead. The Servants
‘ seeing him fall, made away, only Master *Thomas Cranston*
‘ being sorely wounded, and not
‘ able to shift for himself, was apprehended. In
‘ this Fight Sir *Thomas Areskin* and Doctor *Hereife*
‘ were both hurt, but nothing dangerously
‘ wounded.

‘ By this Time the Doors of the other Passage
‘ being made open, the Lords, and a Number
‘ with them entred into the Room, who hearing
‘ what happen’d, went all to their Knees, and
‘ the King himself conceiving a Prayer, gave
‘ Thanks to GOD for his Deliverance, and that
‘ the Device of those wicked Brothers was turn’d
‘ upon their own Heads. The Danger that en-
‘ sued was not much less; for the People of the
‘ Town taking up Arms, did inviron the House,
‘ crying to give them out their Provost, otherwise
‘ they shou’d blow them all up with Powder.
‘ The Rage of the Multitude was great (for they
‘ lov’d the Earl, as being their Provost, beyond all
‘ Measure) and with great Difficulty were they
‘ kept back from using Violence. At last the
‘ Bailiffs and certain of the Citizens being admit-
‘ ted to enter, and brought to the King, when
‘ they were inform’d of the Truth of Things, re-
‘ turn’d and pacify’d the People. After which the
‘ King took Horse and return’d to *Falkland*,
‘ where he was welcomed (the Rumour of the
‘ Danger having prevented his coming) with great
‘ Acclamations of Joy.’

*PROCEEDINGS in Parlia-
ment against FRANCIS BACON
Lord Verulam Viscount St. Albans,
Lord Chancellor of England, on an
Impeachment for Bribery and Corrup-
tion in the Execution of his Office, 19
March, 18 & 19 Jac. I. 1620.*

Proceedings
before the
Commons.

Page 33.

ON Thursday the 15th of *March* 1620, Sir *Robert Phillips* reported from the Committee of the Commons appointed to enquire into Abuses in the Courts of Justice, That they had receiv'd Petitions from Mr. *Awbrey* and Mr. *Egerton*, containing a Charge of Bribery and Corruption against the Lord Chancellor.

That *Awbrey* in his Petition set forth, That having a Cause depending before the Lord Chancellor, and being tir'd with Delays, was advis'd by some who were near my Lord, to quicken him by presenting him with an hundred Pounds; and that having procur'd the Money of a Usurer, the Petitioner went with Sir *George Hastings* and Mr. *Jenkins* to his Lordship's House in *Gray's Inn*, who having carry'd the Money in to his Lordship, came out again, saying, My Lord was thankful, and assur'd him of good Success in his Business.

Sir *George Hastings* (who was a Member of the House) acknowledg'd the giving of the Advice, and presenting the Money to my Lord as from himself, and not from *Awbrey*; this was confirm'd by several Letters, notwithstanding which *Awbrey* was still delay'd.

Egerton in his Petition shew'd, That desiring to procure his Lordship's Favour, he was persuaded by Sir *George Hastings*, and Sir *Richard Young*, to present him with a Sum of Money, and that before he had presented his Lordship with a Piece of Plate of 50*l.* Value, and upwards, as a Testi-

Testimony of his Love, but was doubtful, whether before his calling to the Seal, or since: But now, mortgaging his Estate for 400 l. he desired the Assistance of Sir *George Hastings* and Sir *Richard Young*, in presenting this Money, and they carried it to my Lord Chancellor, as a Gratuity from the Petitioner, my Lord having stood by him when he was Attorney: That they told him his Lordship started at first, saying, It was too much, and would not take it; but at length was persuaded, because it was for Favours passed, and took it, and the Gentlemen returned him Thanks, saying, that their Lord said, that he did not only enrich him, but laid a Tie on him to assist him in all just and lawful Business.

Sir *George Hastings*, and Sir *Richard Young*, acknowledged the receiving and delivering of the Purse, but said, they knew not what was in it, nor did it appear whether there was any Suit depending when those Presents were made.

In this Examination, Dr. *Field*, Bishop of *Landaff*, was charged by the by, with acting the Part of a Broker between *Egerton* and the Lord Chancellor; and that he made *Egerton* acknowledge a Recognizance of 10000 Marks, with a Defeazance, That if my Lord Chancellor Decreed it for him, 6000 Marks should be distributed amongst those that solicited for him; but if it did not go as he desired, he promised he would *in Verbo Sacerdotis* (the Bishop was then only Doctor) deliver up the Bonds.

Page 34.

The House hereupon Ordered, That this Matter should be further considered by the Committee in the Afternoon.

On *Saturday* the 17th of *March*, Sir *Robert Philips* reported from the Committee, That they met on *Thursday* in the Afternoon, and the principal Thing they desired to be satisfied in, was, Whether at the Time of giving those Gifts there was any Suit depending before the Lord Chancellor; and in *Awbrey's* Case it plainly appeared there was: That Sir *George Hastings* own'd, that he did give in a Box of 100 l. to the Lord Chancellor,

cellor, and told him, it was to help *Awbrey* in his Cause, or Words to that Effect: Notwithstanding which, a very prejudicial and murdering Order was made against *Awbrey*; whereupon Sir George mov'd my Lord Chancellor to rectify the Order, and he promised to do it, but did not: That the Order was put into the Hands of *Churchill*, one of the Registers in Chancery, by a Servant of the Lord Chancellor's; and that there were Letters of *Awbrey's* to the Lord Chancellor concerning this Business.

That in Mr. *Egerton's* Case 400 *l.* was given to my Lord while a Suit was depending in the Star-Chamber, wherein Sir *Rowland Egerton* preferred a Petition to the King, for a Reference to the Lord Chancellor, and my Lord caused him to enter into a Bond of 6000 Marks, to stand to his Award. That an Award was afterwards made, and Mr. *Edward Egerton* refusing to submit to it, a Suit was commenced by the Direction of the Lord Chancellor, against him, and the Bond of 6000 Marks assigned over to Sir *Rowland Egerton*.

That it appeared also in *Awbrey's* Case, That the Lord Chancellor sent for Sir *George Hastings* from his House at *Hackney*, and that his Lordship being in Bed when he came to him, commanded every Body to leave the Room, and said, Sir George, *I am sure you love me, and I know that you are not willing that any thing done by you shall reflect any Dishonour upon me. I hear that one Awbrey pretends to Petition against me; he is a Man that you have some Interest in, you may take him off if you please.* That Sir George afterwards prevailed with *Awbrey* to shew him his Petition, which he brought to my Lord, and desired him to do the poor Man Justice, which he promised, but having no Remedy, the Petition went on: That Sir George, some Time since having some Conversation with my Lord, he told him, *he must lay it upon his Lordship. If you do George,* said he, *I must deny it upon my Honour.*

Sir *Robert Philips* having made this Report to the House, Sir *Edward Sackville* urg'd, in his Lordship's Behalf, That these Gentlemen were not competent Witneffes, 1. Because they spoke to discharge themselves. And 2. Because they were those that tempted him; and mov'd, that if they sent up this Complaint to the Lords, it might be without any prejudicial Opinion. Page 33. (35)

Others mov'd that Sir *George Hastings*, and Sir *Richard Young*, might be sequestred from Parliament till the Matter was ended; but this was waved.

Mr. Recorder *Finch* observ'd, That the Witneffes contradicted themselves; Sir *George Hastings* first said, that he gave the Present as from himself, and afterwards, that he told my Lord Chancellor he had it from *Awbrey*, and that *Awbrey* himself did not pretend he gave any Money to my Lord.

That as to *Egerton*, if to congratulate his Lordship at his coming to the Seal, and for the Services he had formerly done him, he made him a Present, he did not see any Hurt in receiving of it, and that as to the 6000 Marks, there was no Colour of Proof he was to receive any Part of it.

Sir *Edward Coke* on the other Side said, That as to the Objection these Gentlemen were not competent Witneffes, he thought otherwise, because they came not with an Intention to accuse his Lordship, but were accidentally interrogated, and that Bribery must remain unpunished, if they would not allow the Person, who carried the Bribe, to be a competent Witness; and if it was objected there was but one Witness, he conceived one to be sufficient in this Case, and that he who accused himself by accusing another, was more than three Witneffes.

The Debates being ended, it was Ordered, That the Complaints of *Awbrey* and *Egerton*, against the Lord Chancellor and the Bishop, for Corruption, be drawn up by Sir *Robert Philips*, Sir *Edward Coke*, Mr. *Noy*, and Sir *Dudley Diggs*,
and

Page 34.
(36)

and related to the Lords without Prejudice or Opinion at a Conference.

On *Tuesday* the 20th of *March* 1620, Sir *Robert Philips* reported, That he had delivered the Heads that were agreed to at a Conference with the Lords: And that the Lords demanded if they would not reduce them to Writing. Resolved, No: It consisting only of two or three Points clear and plain. The Lords also answered, That they would proceed with Care, Diligence and Expedition in this Matter.

A Message came from the Lords, that they shall want the Testimony of two Members of this House, and desire they may attend voluntarily as private Persons, without ordering, and give their Testimony upon Oath, which was agreed to.

Sir *Edward Giles* made a Motion the same Day, That one *Churchill* might be called in, and a Petition was preferred by *Montacute Wood* and others, against the Lord Chancellor, for taking 300 l. of the Lady *Wharton*, and making Orders, &c. which was read; whereupon a Committee was appointed to examine *Churchill* and *Keeling*, the Witnesses to the Facts mentioned in the said Petition.

Sir *Robert Philips* reported from the Committee appointed to examine *Churchill* and *Keeling*, That the Lady *Wharton* having a Cause depending in Chancery, an Order was made for the Dismission of the Bill by Consent of the Counsel on both Sides; which the Lady disliking, took *Churchill*, one of the Registers in Chancery, into her Coach, and carried him to my Lord Chancellor's, of whom she procured Directions to *Churchill* not to enter the said Order; so that the Lady being left at Liberty to prosecute in Chancery, brought her Cause to a Hearing, and obtained a Decree.

Keeling deposed, That about the Time of passing this Decree, my Lady took an 100 l. with her, and made him set down the Words and Style she should use on the Delivery of it; after which, she went to *York-House*, and delivered it to the
Lord

Lord Chancellor, as she told him: She said, she carried it in a Purse, and my Lord ask'd her, *What she had in her Hand?* She replied, *A Purse of her own making*, and presented it to him; who took it, and said, What Lord could refuse a Purse of so fair a Lady's Working. That after this my Lord made a Decree for her, but it was not perfected till 200 *l.* more was given, which gave the Decree Life.

Gardiner, *Keeling's* Man, confirmed the Payment of the 300 *l.* for the Decree, (*viz.*) 100 *l.* before, and 200 *l.* after, it being paid in his Presence.

This purchased Decree being lately damn'd again by the Lord Chancellor, was the Cause of this Complaint. *Keeling* deposed further, that Sir *John Trevor* presented the Lord Chancellor with 100 *l.* by the Hands of Sir *Richard Young*, for a final End of this Cause.

Sir *Richard Young* answered, That when he attended the Lord Chancellor, Sir *John Trevor's* Man brought a Cabinet, and a Letter to my Lord, and entreated him to deliver it, which he did openly; and this was all he knew of it. Page 35. (37)

Ordered, That Sir *Robert Philips* do deliver to the Lords the Bishop of *Landaff* and *Awbrey's* Letters, and all other Writings that he hath.

On *Wednesday* the 21st of *March* 1620, Sir *Robert Philips* reported from the Committee appointed to examine *Keeling* and *Churchill*, That they had informed them of many Corruptions in the Lord Chancellor.

1. That in a Cause between *Hall* and *Holeman*, *Hall* gave or lent that Lord One Thousand Pounds after the Suit began.

2. In another between *Wroth* and *Manwaring*, 100 Pieces were given.

3. *Hoddy* gave a Jewel, valued at 500 *l.* which was presented by Sir *Thomas Peryn*, and Sir *Henry Holmes*.

4. In the Cause between *Peacock* and *Reynell*, much Money was given on both Sides.

5. In the Cause between *Barker* and *Bill*, *Barker* said, he was 800 *l.* out in Gifts since his Suit began.

6. In the Cause between *Smithwick* and *Welsh*, *Smithwick* gave 300 *l.* yet my Lord Decreed it against him, and he had his Money again by Parcels.

That in this and other Causes my Lord would Decree Part, and when he wanted more Money he would send for more, and then Decree another Part: That in most Causes my Lord's Servants took one Side or other, and it was usual with Counsel, when their Clients came to them, to ask what Friend they had at *Tork-House*.

Mr. *Mewtys* observed of these Persons who informed against the Lord Chancellor, that *Keeling* was a common Solicitor, and intimated something worse; and *Churchill* a guilty Register, by his own Confession; and that the Fear of Punishment, and the Hopes of lessening it, might make them say much more than was true; and moved, that those general Informations might not be sent up to the Lords, unless they descended to Particulars.

A Message being sent to the Lords, to relate the Case of the Lady *Wharton*, and the Informations of *Churchill*, Sir *Robert Philips* reported from the Lords, That they acknowledged the Care of this House in these important Concerns, and returned Thanks for the Correspondence of this House, and assuring the like Conduct on their Part: That in these and all other Things, they would advise and return an Answer as soon as possible.

Proceedings in the House of Peers against the Lord Chancellor Bacon.

Proceedings in
the House of
Peers against
the Lord *Bacon*.

Page 36.
(38)

The Lords having had a Conference with the Commons on the 19th of *March*, the Lord Treasurer reported the Tenor of the said Conference the next Day, in the House of Peers, which consisted chiefly of the Evidence that had been

been given before the Commons against the Lord Chancellor (already recited.)

The Lord Admiral, the Duke of *Buckingham*, presented to their Lordships a Letter, written by the Lord Chancellor to the House; wherein he desires, that they would excuse his Absence on Account of his Sicknes, that they would retain a good Opinion of him till his Cause should be heard: That he might have Time to advise with his Counsel concerning his Answer, and be allowed to except to the Witnesses, cross examine them, and produce his own Witnesses.

Lastly, That if more Petitions of the like Nature were preferred against him, that their Lordships would not be prejudiced against him on account of the Number, especially, considering he had made Two thousand Orders and Decrees within the compass of a Year; but that he might answer them severally, according to the Rules of Justice, and he thought himself happy in being tried before such Noble Peers and Reverend Prelates, and that he should be plain and open in his Defence, and use no Art or Subterfuge to disguise the Truth. Page 39.

The Lords answered, That they should proceed in his Cause according to the right Rules of Justice, and be glad if his Lordship could clear his Honour: To which End they prayed his Lordship to provide for his Defence.

The Lords in the mean Time, having taken divers Examinations of Witnesses in the House, and appointed a select Committee to take Examinations of Witnesses to the Briberies and Corruptions of the Lord Chancellor, ordered them to be transcribed, with the Proofs, and are as follow.

l.

That in the Cause between Sir <i>Rowland</i>	}	300
<i>Egerton</i> and <i>Edward Egerton</i> , his Lord-		
ship received, on the Part of Sir <i>Rowland</i>		
<i>Egerton</i> , before he Decreed for him,	}	400
Item, of <i>Edward Egerton</i> in the said		
Cause _____		

Item,

<i>Item</i> , In the Cause between <i>Hodie</i> and <i>Hodie</i> , a Dozen of Buttons, (after the Cause ended) of the Value of ———	} 50
<i>Item</i> , Of the Lady <i>Wharton</i> ———	310
<i>Item</i> , Of Sir <i>Thomas Monk</i> ———	100
<i>Item</i> , Of Sir <i>John Trevor</i> ———	100
<i>Item</i> , Of one <i>Young</i> ———	100
<i>Item</i> , Of one <i>Fisher</i> ———	106
<i>Item</i> , In the Cause of <i>Kenday</i> and <i>Valore</i> , of <i>Kenday</i> , a Cabinet, worth ———	} 800
Of <i>Valore</i> (borrow'd at two Times) ———	2000
<i>Item</i> , In the Cause between <i>Scot</i> and <i>Len-</i> <i>thall</i> , of <i>Scot</i> ———	} 200
<i>Item</i> , Of <i>Lenthall</i> ———	100
<i>Item</i> , Of one <i>Wroth</i> , who had a Cause be- tween him and one <i>Manwaring</i> , ———	} 100
<i>Item</i> , Of Sir <i>Ralph Hansby</i> ———	500
<i>Item</i> , In the Lord <i>Mountaine's</i> Cause, of the Lord <i>Mountaine</i> , and more promis'd at the End of the Cause ———	} 600 or 700
<i>Item</i> , Of one Mr. <i>Dunch</i> ———	200
<i>Item</i> , In a Cause between <i>Reynell</i> and <i>Pea-</i> <i>cock</i> , 200 l. in Money, and a Diamond Ring worth 5 or 600 l. ———	} 700 or 800
<i>Item</i> , Of <i>Peacock</i> ———	100
<i>Item</i> , In a Cause of <i>Barker</i> ———	700
<i>Item</i> , There being a Reference from his Majesty to his Lordship, of a Business between the <i>Grocers</i> and <i>Apothecaries</i> , he had of the <i>Grocers</i> ———	} 200
Of the <i>Apothecaries</i> , (besides a rich Pre- sent of <i>Ambergrease</i>) ———	} 150
<i>Item</i> , Of the <i>French</i> Merchants, to con- strain the <i>Vintners</i> of <i>London</i> to take 1500 Tuns of Wine; to accomplish which, he used very indirect Means by Colour of his Office and Authority, without Bill or other Suit depending, as threatening and imprisoning the <i>Vintners</i> , for which he received of the Merchants—	} 1000

Page 39.
(40)

Lastly,

Lastly, That he had given way to great Exactions by his Servants, in respect of private Seals, and Sealing Injunctions.

On *Tuesday* the 24th of *April*, the Prince intimated to the House, that the Lord Chancellor had sent a Submission to their Lordships, of the Tenor following:

‘ That in the midst of a State of as great Affliction as a mortal Man could endure, (Honour being above Life) he should begin with professing Gladness in some Things.

I. ‘ That hereafter the Greatness of a Judge or Magistrate should be no Protection of Guilt; that after this Example Judges would fly from any Thing that had an Appearance of Corruption; which tended to the purging of the Courts of Justice, and reducing them to their true Honour and Splendour: And though it was his Fortune to be the Anvil, whereon these good Effects were wrought, he took no small Comfort that some Justification had been expected from him; but he should make no other than that of *Job*, in these Words; *I have not hid my Sin, as did Adam, nor concealed my Faults in my Bosom.* It remained therefore, that he ingenuously confess’d and acknowledged, that having understood the Particulars of the Charge, not from the House, but enough to inform his Conscience and Memory, he found Matter sufficient to move him to desert his Defence, and to move their Lordships to condemn and censure him.

‘ Nor should he trouble their Lordships with singling out such Particulars as might easiest be answered, or prompt them to observe upon the Proofs where they did not come home, or the Scruples touching the Credit of the Witnesses; nor would he represent how far a Defence in divers Things might extenuate the Offence, in respect of the Time or Manner of the Gift, or the like Circumstances, but leave those Things to spring out of their own noble Thoughts and Observations of the Evidence, and Examinati-
ons

Page 41.

'ons themselves, and charitably to wind about the
 'Particulars of the Charge, here and there, as
 'God should put into their Minds: And so sub-
 'mitted himself wholly to their Pity and Grace.
 'The rest of the Letter seems only calculated to
 'move their Lordships Compassion till he comes to
 'the Conclusion, where he says, My humble Suit
 'therefore to your Lordships is, that my penitent
 'Submission may be my Sentence, and the Loss
 'of the Seal my Punishment, and that your
 'Lordships will spare my further Sentence: But
 'recommend me to his Majesty's Grace and Par-
 'don for all that is past. God's holy Spirit be
 'among you. Sign'd,

Apr. 22.

1621.

Your Lordships Humble Servant,
 and Supplicant,

Fran. St. Albans, Canc.

The Lords having considered of this Submission,
 sent a Copy of the Charge, without the Proofs,
 to the Lord Chancellor, by Mr. Baron *Denham*
 and Mr. Attorney General, Sir *Thomas Coventry*
 with this Message, That the Lord Chancellor's
 Confession was not fully set down. 1. Because his
 Lordship confessed no particular Bribe or Cor-
 ruption. 2. Nor shew'd how he heard of the
 Charge. And, 3. That the Confession, such as it
 was, afterwards extenuated in the same Submis-
 sion. And therefore their Lordships expected
 an Answer to the Particulars of the Charge they
 sent him. To which Message the Lord Chancel-
 lor answered, he would return an Answer with
 Speed. On the 25th of *April* their Lordships
 sent him another Message, to know directly and
 presently, whether he would make his Confession,
 or stand upon his Defence. To which his Lord-
 ship answered, he would make no Manner of De-
 fence to the Charge, but acknowledge Corruption,
 and make a particular Confession to every Point,
 and after that an humble Submission, but crav'd
 Leave that where the Charge exceeded the Truth
 of the Fact, he might make a Declaration of the
 Truth;

Truth. The Lords thereupon allowed him till *Monday* the 30th of *April* to send such Confession and Submission.

Accordingly the Lord Chancellor on the 30th of *April* 1620. sent in his humble Confession and Submission, directed to the Lords Spiritual and Temporal in the high Court of Parliament assembled: Wherein he plainly and ingenuously confess'd that he was guilty of Corruption, renounc'd all Defence, and put himself upon the Grace and Mercy of their Lordships.

Particularly he confess'd in the Cause between *Sir Rowland Egerton* and *Edward Egerton*, That upon a Reference from his Majesty of all Suits and Controversies between them, they submitted to his Award, by reciprocal Recognizances in 10000 Marks a-piece: Thereupon he made his Award with the Advice of the Lord *Hobart*, and it was perfected and published to the Parties in *February*; some Days after which the 300*l.* mentioned in the Charge were delivered to him; but Mr. *Edward Egerton* refused to stand to the Award. In *Midsummer* Term following, a Suit was begun in Chancery by *Sir Rowland*, to have the Award confirmed, and upon that Suit was made the Decree mention'd in this Article.

As to the Second Article in the same Cause, he confess'd that soon after his coming to the Seal, when he was presented by many, the 400*l.* mentioned in the Charge was delivered to him in a Purse from Mr. *Edward Egerton*, but as he remember'd, it was express'd to be for Favours past, and not in respect of Favours to come.

Page 42.

To the Third, In the Cause between *Hody* and *Hody*, he confessed that a Fortnight after the Cause was ended, it being a Suit for a great Inheritance, there were Gold Buttons about the Value of 50*l.* as is mention'd in the Charge, presented to him by *Sir Thomas Perrot*, and the Party himself.

To the Fourth, In the Cause between the Lady *Wharton* and the Co-heirs of *Sir Francis Wiltoughby*, he receiv'd at twice, 200*l.* and 100 Pieces,

ces, and this was certainly *pendente lite*; but he suspected there was some Shuffling between Mr. *Shute* and the Register, in entering some Orders, which he afterwards distasted.

To the Fifth, In Sir *Thomas Monk's* Case, he confess'd he received of him, by the Hands of Sir *Henry Holmes*, 110*l.* but it was long after the Suit was ended.

To the Sixth, Between Sir *John Trevor* and *Ascue*, he confess'd he receiv'd at New-Years-Tide, 100*l.* from Sir *John*; and though the Cause was then dismiss'd to a Trial at Law, yet the Equity was reserv'd, so that it was in a Manner *pendente lite*.

To the Seventh, In the Cause between *Holman* and *Young*, he confesses that a good while after the Cause was ended, he receiv'd 100*l.* either by Mr. *Toby Matthew*, or from *Young* himself, but was never made Privy to the Money that was given by *Holman* to his Servant *Hatcher*.

To the Eighth, *Int. Fisher* and *Wrenham*, he confess'd that some Time after the Decree pass'd, being upon the Remove to *York-house*, he received a Suit of Hangings about the Value of 160*l.* by the Hands of Mr. *Shute*, from Sir *Edward Fisher*, towards furnishing his House, and that he received the like about the same Time, from several others, who were not Suitors.

To the Ninth, Between *Kenneday* and *Vanlore*, he confess'd a Cabinet was brought to his House, but Nothing near half the Value of 800*l.* as is charged in this Article; that he ordered it to be carried back, and was very angry when he heard it was not: And that about a Year and a Half after, Sir *John Kenneday*, having all that Time refused to take it away, he was petition'd by one *Pinkney*, that it might be delivered to him, for he stood engaged for the Money that Sir *John* paid for it; and that Sir *John* thereupon wrote to one of his Lordship's Servants, desiring he would not disgrace him so as to return that Gift back, much less put it into a wrong Hand, and

and so it remained ready to be return'd, to whom their Lordships should appoint.

To the Tenth, He acknowledg'd that he borrow'd 1000*l.* of *Vanlore* upon his own Bond, and a like Sum by a Bill subscrib'd by his Man *Hunt*, and that it was a true Debt.

To the Eleventh, He confess'd that he receiv'd of *Richard Scott*, 200*l.* by Mr. *Shute*, about a Fortnight after the Decree for him; upon some precedent Promise made by *Shute*, but his Lordship knew of none.

To the Twelfth, He confess'd that a Month after the Decree pass'd, he received 100*l.* by his Servant *Sherborne*, as from Sir *John Lentball*, who was not the adverse Party to *Scott*, but a third Person relieved by the same Decree in the Suit of one *Power*.

To the Thirteenth, *Inter Wroth* and *Manwaring*, he confessed that this being a Cause for an Inheritance of good Value, was determined by his Arbitrement, and Consent of Parties; and so a Decree pass'd of Course, and about a Month after the Cause was ended, he received the 100*l.* of *Wroth*, mentioned in this Article.

To the Fourteenth, He confessed that Sir *Ralph Hansbye* having a Cause depending before him, Page 43. there were two Decrees, one for the Inheritance, and the other for the Goods; and some Time after the first Decree, and before the second, the 500*l.* charged in this Article, was delivered to him by Mr. *Toby Mathew*, so that he could not deny but it was *pendente lite*.

As to the Fifteenth Article, which charges that *William Compton*, being to have an Extent for a Debt of 1200*l.* the Lord Chancellor staid it, and wrote his Letter, upon which Part of the Debt was paid presently, and Part at a future Day, that the Lord Chancellor thereupon sent to borrow 500*l.* and because *Compton* was to pay 400*l.* to one *Huxley*, his Lordship required *Huxley* to forbear six Months, and thereupon obtain'd the Money of *Compton*: The Money being unpaid, a Suit

was

was commenced in Chancery between *Huxley* and *Compton*, where his Lordship decreed *Compton* to pay *Huxley* the Debt with Damages and Costs, when the Money was in his own Hands. To this the Chancellor answered, that in his Conscience the Stay of the Extent was just, being an Extremity against a Nobleman, by whom *Compton* could be no Loser. That the Money was plainly borrowed by him of *Compton*, upon Bond with Interest, and the Message to *Huxley* was only to entreat him to give *Compton* a longer Day, and in no Sort to make his Lordship Debtor, or responsible to *Huxley*; and therefore though he was not ready to pay *Compton* his Money, he could not deny Justice to *Huxley*, in as ample Manner, as if nothing had been between *Compton* and his Lordship: But if *Compton* had been damag'd by his Default, he (the Chancellor) was to consider it to *Compton*.

To the Sixteenth, *Inter Bronker and Awbrey*, he confess'd that the Money charged in this Article was received of *Awbrey*, but the Manner of it he left to the Witnesses.

To the Seventeenth, He confesses he receiv'd 6 or 700*l.* of the Lord *Montague* after the Cause was decreed, but he could not say it was ended, for there had been many Orders since occasion'd by *Sir Francis Inglefield's* Contempts; and that *Thelwal*, who brought the Money, told his Lordship that the Lord *Montague* would be farther thankful if he could once get his Quiet: But he gave little Regard to that Speech.

To the Eighteenth, He acknowledges to have receiv'd of Mr. *Dunch* the 200*l.* charged in this Article.

To the Nineteenth, *Inter Reynell and Peacock*, he confesses that his Servant *Hunt*, at his first coming to the Seal, delivered him 200*l.* from *Sir George Reynell*, his near Ally, for Furniture, adding that he had received divers Favours formerly from him, and this was before any Suit begun: But the Ring was received *pendente lite*, and tho' nothing near the Value mentioned in the Article, was of too great a Value for a New Year's Gift.

To

To the Twentieth, which charges that he took 100*l.* of *Peacock* without Interest, Security or Time of Payment, he confess'd he received 100*l.* of Mr. *Peacock* at his first coming to the Seal, as a Present, when no Suit was begun, and that he afterwards borrowed of *Peacock* 1000*l.* by 500*l.* a Time, and that Mr. *Rolfe* who procured it for him, told him at both Times that it should be without Interest, Script or Note, and he might take his own Time to pay it.

To the Twenty-first, *Inter Smithwick and Welsh*, he confessed that his Servant *Hunt*, upon his Account, being his Receiver of the Fines upon original Writs, charged himself with 200*l.* formerly received of *Smithwick*, but when his Lordship afterwards understood the Nature of it, he ordered it to be repay'd.

As to the Twenty-second Article, He confessed he received 3 or 400*l.* of Mr. *Ruswell* in a Purse, by his Servant Mr. *Hunt*, about a Month after the Cause was decreed; in which Decree he was assisted by two Judges.

To the Twenty-third, He confessed that he received 700*l.* of Mr. *Barker* sometime after the Decree passed for him.

To the Twenty-fourth, Twenty-fifth, and Twenty-sixth Articles, he answers as follows, (*viz.*) As to the Twenty-fourth, which charges that there being a Reference from his Majesty to his Lordship, of a Business between the Grocers and Apothecaries, his Lordship received of the Grocers 200*l.* As to the Twenty-fifth, in the same Cause which charges his having received of the Apothecaries, who stood with the Grocers, a Taster of Gold, worth 4 or 500*l.* and a Present of Ambergrease; and as to the Twenty-sixth, which charges him with receiving of a new Company of Apothecaries, who stood against the Grocers, 100*l.*

That he confessed the three several Sums from the said three Parties were received; that it was no judicial Business, but an Agreement of Composition between the Parties, in which he thought

Page 44.

they all received some Benefit; they were all three common Purfes, which made him think it the lefs Matter to receive what they voluntarily presented: And if he had taken it in the Nature of a Bribe, he knew it could not be concealed, becaufe it must be entered in the Accounts of the three feveral Companies.

As to the Twenty-seventh Article which charged him with taking of the *French* Merchants 1000*l.* to compel the Vintners of *London* to take 1500 Tuns of Wine of them, and using indirect Means to accomplish it, by Colour of his Office, when no Bill or Suit was depending, terrifying the Vintners and imprisoning their Persons, till they should buy the Wines, of which they had no Need or Use, at higher Rates than they were vendible: He answered and confess'd that Sir *Thomas Smith* came to him in Behalf of the *French* Company, informing him that the Vintners by Combination would not take off their Wines at reasonable Prices, which would hinder this Year's Voyage, and destroy their Trade: That it was a fair Business which concerned the State, and he would receive the Thanks of the King and Honour by it, and that they would give his Lordship a thousand Pounds for his Trouble: That he treated with them first by Way of Perswasion, proposing such a Price as the Vintners might be Gainers six Pounds *per* Tun: That after the King had recommended the Matter to him as a Business that concerned his Customs, he dealt more peremptorily in it, and thinks that he restrained some of the most obstinate in a Messenger's Hands for a Day or two, and afterwards the Merchants presented him with 1000*l.* out of their common Purse, acknowledging he had preserved them in a Manner from Ruin.

To the Twenty-eighth Article, That he gave Way to the Exactions of his Servants, both in respect of private Seals, and otherwise for sealing Injunctions: He confessed it was a great Neglect in him that he looked no better after his Servants.

This Declaration his Lordship said he made with a sincere Mind, humbly entreating, if there should

should be any Mistake, their Lordships would impute it to want of Memory, and not to any Desire to conceal the Truth, or palliate his Faults; for he again confessed, that if the Facts were taken to be as he had declared them, there appeared a great deal of Corruption and Neglect, for which he was heartily Sorry, and submitted to the Judgment, Grace and Mercy of the Court.

He desired their Lordships to cast an Eye of Compassion on him, and observed that none of the Offences he was charged with had happened within two Years past; whereas those that had a Habit of Corruption usually waxed worse; that he was never esteemed an avaritious Man, and his Estate was so very mean, that his Care was now chiefly to satisfy his Debts: Concluding with his Petition to their Lordships, that their Sentence might not be heavy to his Ruin, but mix'd with Mercy; and that they would likewise be Intercessors for him to his Majesty for his Grace and Favour, Sign'd,

Your Lordships

Servant and Supplicant,

Franc. St. Albans Cane,

The Lords having heard this Confession read, deputed the Earl of *Pembroke*, and some other Lords, to acquaint the Lord Chancellor, that they did conceive it to be an ingenuous and full Confession, and to demand, whether he owned the Hand to be his that was subscribed to it, and whether he would abide by it: To which his Lordship answered, *My Lords, it is my Act, my Hand, my Heart; I beseech your Lordships to be merciful to a broken Reed.* Which Answer being reported to the House, they moved his Majesty to sequester the Seal; whereupon a new Commission was awarded to the Lord Chief Justice, *Sir Robert Hutton,*

The second of *May*, the new Commission being read, their Lordships agreed to pass Sentence the next Morning, and ordered the Gentleman Usher, and Serjeant at Arms attending their House, to summon the impeached Lord to appear before the House at Nine next Morning; and commanded the Serjeant to take his Mace with him, and shew it him at the said Summons; but they found him sick in Bed, and he protested he did not feign, for if he had been well he would willingly have come.

Page 45.

The Lords resolving to proceed against the impeached Lord, notwithstanding, sent a Message to the Commons, That they were ready to give Judgment against the Lord Viscount *St. Albans*, if they came with their Speaker to demand it; whereupon the Speaker of the Commons being come, demanded Judgment in the Name of the Commons against the Lord Chancellor.

To which, the Lord Chief Justice answered, That High Court had found him guilty of the Crimes and Corruptions complained of by the Commons, and of sundry other Crimes of the like Nature; did adjudge, That the Lord Viscount *St. Albans*, Lord Chancellor of *England*, should pay a Fine of Forty thousand Pounds, and be imprisoned in the *Tower* during the King's Pleasure; that he should be for ever incapable of any Office, Place or Employment in the Common-wealth; and that he should never sit in Parliament, or come within the Verge of the Court.

He was afterwards set at Liberty, and had a Pension from the King, but lived in strait Circumstances obscurely in his Chambers at *Grey's Inn*, and was reduced to so low an Ebb as to be denied a Bottle of Beer by the Lord *Brook*, who lived in the Neighbourhood. He died on *Easter Day*, 1626, being six Years after his Trial, in the 66th Year of his Age, at the Earl of *Arundel's* House at *Highgate*, whither he repaired accidentally the Week before: His Distemper was a slow Fever and a Cold, which occasioned such a Defluxion of Rheum, that he was suffocated with it.

He

He was buried in St. *Michael's* Church at St. *Alban's*, according to his Will, because his Mother was buried there, and it was the only Church within the Precincts of *Old Verulam*, in which a white Marble Monument was erected to his Memory, by Sir *Thomas Merwys*, his Lordship's Secretary, with an Inscription, by the celebrated Sir *Henry Wotton*.

PROCEEDINGS in the Star-Chamber against HENRY SHERFIELD, Esq; Recorder of Salisbury, for breaking a painted Glass Window in the Church of St. Edmond's in the said City, on 'the 6th of February, 8 Car. I. 1632.

M R. Attorney General exhibited an Information against the said *Henry Sherfield*, Esq; a Bencher of *Lincoln's Inn*; wherein he set forth, that his Majesty was in this Kingdom the supreme Head; that all Churches are sacred, and founded and maintained by the Regal Power, and that no Subject can alter any thing in their Ornaments or Structure, without Licence of the respective Bishops or Ordinaries, who derive their Authority from the Crown.

That the said *Sherfield* was an Inhabitant of the Parish of St. *Edmond's* in the City of *New Sarum*, and that there being a fair antient Window in the said Church, containing a Description of the Creation, the Defendant in *January* 5 Car. assembled with some factious Persons, and agreed to deface it; and although the Bishop of *Sarum* by a publick Act prohibited the same, the Defendant in *October* following, procured the Keys of the Church, and having lock'd himself in, contrary to the Bishop's Orders, beat down the said Window, and defac'd it, and afterwards boasting of the Fact, declar'd that he was a Defacer of Idolatry.

Sir Robert Heath.

The Information.

Page 46.

The Answer.

To which the Defendant answer'd, That the College of *St. Edmond*, with the Church thereto belonging, was founded by King *Henry* the Third, and that by the Acts for Dissolution of Monasteries in the Reign of King *Henry* VIII. the same was vested in the Crown, and so remain'd until the Reign of his late Majesty King *James*, who granted it to *Gouge* and *Loyd*, who afterwards convey'd the same to *Bartholomew Tookey*, and others, to the Use of the said Parish of *St. Edmond*, with the Advowson of the Vicarage there, which they held by a Grant from his said late Majesty King *James*.

That he conceiv'd the said Church to be a Lay Fee, and that what he had done was not with an Intent to usurp any Authority over the Bishop, or in Opposition to his Majesty's Government: But that the Parishioners of the said Parish had used to assemble Time out of Mind in the Vestry of the said Church, and made Orders for the altering and making new Windows, altering the Seats, and other Things that tended to the Ornament and Repairs of the said Church, without any Order from the Bishop of *Sarum*, or any other Ordinary.

He answered further, That the History mentioned was no true Representation of the Creation according to *Moses*: The Workmen had committed many Errors in Painting the said Window; they had represented GOD the Father like a little old Man in a blue and red Coat: That they had made seven such Pictures; whereas GOD was but one; that they had plac'd the several Days Works in the Creation preposterously, the Fourth before the Third, and that which was done on the sixth Day in the Fifth; and in one Place GOD the Father was represented with a Pair of Compasses in his Hand, creating the Sun and Moon, as if done by the Rules of Geometry.

That this was none of the largest Windows in the Church, and that which was broken of it might be repaired for a Trifle: And he conceives his Defacing this prophane Representation of
GOD

GOD the Father in it, was not so heinous a Crime as to deserve the Sentence of the Court of Star-Chamber: That for thirty Years pass'd he had been convinc'd in his Judgment, that it was unlawful to make any such Representations of GOD the Father; his Opinion being founded on such Authorities as occasioned the pulling down and abolishing superstitious Images and Pictures in the Reign of Queen *Elizabeth*. Page 47.

That he was the rather induc'd to endeavour the Taking away the said Window, because it had evidently been the Occasion of Idolatry in some ignorant People: That he was plac'd in such a Seat at Church that the said Window was always in his Eye: That he had obtain'd a special Order of Vestry for taking down the said Window, if he saw fit, and putting up new Glass in the same; and that he did thereupon with his Staff pick out some of the Glass which represented the Deity, but not in Opposition to his Majesty, or by Force, in Combination with others, or against the Order of the Bishop of *Sarum*, of which he had no Notice: And to all the rest of the Misdemeanors and Offences in the Charge, *He pleaded Not Guilty*.

Bowen, the Sexton's Wife, and her Daughter deposed, That the Defendant *Sherfield* came to their House for the Keys of the Church, and having open'd the Door, shut himself in; That she look'd through a Crack, and saw him stand on one of the Seats and break the said Window with his Staff in several Places; That he fell down into the Seat, and lay groaning there a Quarter of an Hour, and was so bruised that he was forc'd to be carried home on Horse-back, and kept his House for a Month upon it; That the same Window and several others were afterwards broken by one *John Palmer*, with a Pitch-fork, about four o'Clock one Morning. Page 48.

Doctor *Webb* of *Steeple Ashton* depos'd, That viewing the Church of *Steeple Ashton* with the Defendant, he declared his Dislike of painted Windows, because it made the Church darker, and Page 49.

was the Occasion of Idolatry ; and speaking of the Window in question, said he wou'd have it taken down, but the Bishop's Chancellor oppos'd him, tho' it was a Lay Fee.

John Lymminge of the said Parish of *St. Edmonds* deposed, That being Church-warden of the said Parish about two Years since, *Mr. Sherfield* mov'd the taking down the said Window at a Vestry, and they all consented to it, except two, who said they desired to have the Lord Bishop's Leave for doing it, to whom *Sherfield* said, do not trouble your selves, I will give the Bishop Satisfaction : That the Bishop afterwards sent for this Deponent, and enquir'd if any such Order of Vestry was made, and this Deponent assuring him there was, the Bishop said, let it not be done, but directed him not to give Notice of this Inhibition to the Rest of the Vestrymen.

Francis Roberts, Servant to the Bishop's Register, depos'd, That an Order of Vestry for taking down the Window in the South Porch of the said Church of *St. Edmonds*, sign'd by *Mr. Sherfield* and some others, was brought to the Bishop, who order'd this Deponent to take a Copy thereof, and thereupon the Church-wardens were sent for and forbidden by the Bishop to put the same in Execution, and a publick Act was made thereof.

Here *Mr. Herne*, Counsel for the Defendant, acknowledg'd the Church to be a parochial Church, subject to the Bishop of Sarum, and did not justify the Fact on Account of its being a Lay Fee, as in the Answer.

It is observ'd to have been a great Defect in the Evidence on the King's Part, That the Relator could not prove that *Sherfield* had Notice of the Bishop's Inhibition, nor had the Act of the Bishop to produce in Court, which might easily have been done : The King's Counsel having given all their Evidence, the Witnesses were call'd on Behalf of the Defendant ; and first,

John Foy of *Salisbury*, Gent. depos'd, That he had known the Defendant twenty Years, and had observ'd him to be conformable to the Church of
England,

England, constantly present at Divine Service, and he had known him receive the Sacrament on his Knees several Times; That the Vestrymen of the said Parish-Church have long us'd to meet, and make Orders for Repairing and Adorning the said Parish-Church; That they have taken down Seats and set up new ones, taken down Windows, Walls, and Pieces of the said Church, made a new Loft for Ringing the Bells, &c. without any special Order from the Bishop, or being question'd for these Things; That on the 16th of *January*, 1629, an Order of Vestry was made for taking down the Window in question, for that it was superstitious, and darkned the Church, and that five of the Vestrymen, who order'd it, were Justices of Peace in *Salisbury*. *Peter Thatcher*, Clerk, Vicar of the said Parish of *St. Edmond's*, depos'd, That he had known the Defendant eight Years, and he was always conformable to the Church, receiv'd the Sacrament, &c. That the broken Window in question might be mended for a small Matter, and the Creation intended to be describ'd was still discernable. Page 51.

Here *Dr. Laud*, Bishop of London, observ'd, that notwithstanding this Witness, Thatcher, testified the Defendant's Conformity and Attendance all the Time of Divine Service, Thatcher himself had neglected to read the whole Service a Year together.

Thatcher depos'd farther, that there were many Falsities and Mistakes in the Representation of the Creation in the Window in question; That he saw a poor Woman bowing to the Window, and demanding what it was she bow'd to, she answer'd, To her Lord God in the Window.

Michael Mackerell of *New Sarum*, Gent. depos'd, That the Defendant was in all Things conformable to the Church of *England*, and that he had call'd divers in question for their Nonconformity, and with other Justices of the Peace had punish'd Anabaptists and Separatists.

James Palmer of *Salisbury*, aged eighty Years, depos'd, That for fifty Years pass'd he had known

Page 52.

known the Vestrymen of St. *Edmond's* take upon them to make Reparations and Alteration in the said Church, and that once they remov'd the Reading Desk out of the Chancel, and set it up about the Middle of the Church, without applying to the Bishop or Ordinary for Leave.

Here the Bishop of London observ'd, that a Vestry might do ordinary Repairs, &c. without Leave of the Ordinary, but in doubtful Things they ought to ask Leave, and of the same Opinion was the Lord Keeper.

William Antopp of Salisbury, Gent. depos'd, That he saw two Persons, whom he thought to be Papists, kneel before the said Window, beat their Breasts, and pray to the Pictures therein.

Then the Defendant's Counsel proceeded to read several Statutes, Records and Authorities in Justification of the Fact: And first an Injunction publish'd 1 *Eliz.* whereby the Church-wardens were required to see all Shrines, Coverings, Candlesticks, Pictures, Pilgrimages, Rolls of Wax, Relicks of sacred Miracles and superstitious Things, taken away and defaced, preserving nevertheless the Walls and the Stone-work in the Windows.

To which *Neale*, Archbishop of *York*, answer'd, *That this was by Direction of the Queen's Visitors, and not by their own Authority.*

After which were read the Articles of Inquiry set forth 13 *Eliz.* one whereof was, Whether all Shrines, Coverings, Rolls of Wax, &c. and Pictures of false and feign'd Miracles were remov'd and abolish'd; whereupon the Bishop of *London* observ'd, that the Story of the Creation was not a Picture of false Miracles, and that the Canon only gave the Church-wardens Power to present such Things to the Ordinary.

Mr. Herbert being of Counsel for the Defendant, observ'd in his Defence, That if this Window should be interpreted to be an Ornament of the Church, and therefore a Fault in any to remove it without the Bishop's Leave; that the Defendant did not do it of his own Head, but by
an

an Order of Vestry, because it was esteem'd Idolatrous; and this must be criminal, either because it seem'd to derogate from the Honour and Authority of the Church, and was done in Opposition to the Bishop's Jurisdiction, or because the Defendant justify'd the doing of it in his Answer, as being their Lay Fee: That they had shewn they had no Design to set up the Power of the Vestry against the Authority of the Bishop, they acknowledg'd the Vestry acted by his Power, tho' it did not seem necessary that they should ask the Ordinary Leave every Time they did any Thing about the Church: And as to the Justification in the Defendant's Answer, on Account of its being a Lay Fee, he had alter'd his Opinion, and did not insist upon it; that what he had done was the Act of the Church-wardens, who were subject to the Bishop: That as to the Doing it against the Bishop's Prohibition, he denied that Circumstance upon his Oath, and there was no Probability that he knew of it: Concluding, that tho' he was charg'd with Dishonouring the Church, the Act was intended to do Honour to GOD.

Page 53.

The Attorney General, Mr. Noy, on the other Hand urg'd, That it was strange the Defendant, who had been offended at this Picture for twenty Years, in all that Time never complain'd to the Ordinary, but should propose the Demolishing it to a Vestry; That he did indeed pretend to satisfy the Bishop about it, but made no one Step towards it; That afterwards the Bishop prohibited the taking down the Window, and thereby suspended the Power of the Vestry, if they had any, and of this the Bishop was not bound to give Notice; the Defendant therefore must do it afterwards at his Peril, especially since he had acknowledged it to some People, that the Chancellor oppos'd it.

Page 54.

Then, as to the Manner of Breaking it, he did it by himself in the Dusk of the Evening, without so much as taking one of the Vestry with him, by whose Authority he pretended to have done it; nor did he pursue the Vestry's Order in doing it,

it; for he broke it down, he did not take it down; That if it had been done by him in Execution of the Order of Vestry, he would have consulted some Glazier in it; he executed his own Humour therefore, and not the Order of Vestry.

That there was a great Deal of Difference between Repairing and Reforming, Reformation ought alway to be by the supreme Power, and not by private Men; and when a Vestry should take Reformation upon them, he would be bold to say, it was the Highway to bring every Thing to Confusion by their Reformation: Some he observ'd, held the Churches to be idolatrous, because Common Prayers were said in them, and Masses had formerly been said there: These Reformers therefore would next Time possibly take away the Churches themselves: As to any Person's kneeling down before this Window, they might as well do so before a Saint, or one of the old Prophets, when they see their Pictures in a Church or Chapel (as in *Lincoln's Inn* Chapel;) and if they should do so, then must Mr. *Sherfield* pull down such Windows, or some Body else, whose Conscience shall be disturb'd at this Piece of Idolatry. Again, shall Mr. *Sherfield* come and pull down this Window by his own Authority, because he apprehends it to be the Cause of Idolatry in others: Why does he not apply himself to the Ordinary, that the Grievance may be remedied in a legal Way; but this is such Idolatry as must be conceal'd from the Ordinary: Suppose another private Man should come and say, It is no Cause of Idolatry, and therefore it shall stand still: Thus they differ first, and then fight about it, afterwards others come in and side with each Party, as they are inclin'd, and a Civil War or Insurrection ensues, which have frequently taken their Rise from less Occasions than this; and though, GOD be thanked, it was not so in this Case, yet it might have been, and may be so, (a prophetic Speech) if such Things shall be allow'd, in Instances of the like Nature hereafter.

As to the Injunctions and Articles produc'd in his Defence, they are only to authorize the Ordinary to enquire of Things fit to be reformed in Churches by the Churchwardens, and other Officers; and these Officers are to present the Matter to them, and so they are to be reform'd by the Power of the Ordinary in every Diocese; and the Intent was, That all Relicks of Idolatry and Superstition should be taken away; but every Memorial or Story of a Saint or Prophet is not a Relick of Idolatry or Superstition. A Monument of Superstition, or of feign'd or false Miracles, may be taken down, but Monuments or Pictures for Memorials of Saints or Prophets are not idolatrous or superstitious; and if some Men, because they conceive them so, might pull them down of their own Heads, then they might, and I doubt not but some fiery Spirits would take upon them to pull down all Cathedral Churches, because these are built in the Form of a Cross, which some precise People cannot endure: And so because some Churches stand East and West, they would pull them down, because forsooth they hold this Situation to be superstitious; but Reformation is and always hath been the Work of Authority, and Men have been punish'd by this Court for Offences of the like Nature. In the 44th of *Eliz.* many People, of their own Heads, went about breaking down Crosses, Images and Pictures of all Sorts: At *Banbury* they pull'd down a Cross; whereupon a Proclamation was publish'd by the Queen against pulling down Images and Pictures, which recites, That whereas many violent Persons had of their own Authority gone about to deface the Walls and Glass Windows of Churches, pull'd down Tombs and Monuments of Noblemen and Gentlemen, to their Dishonour and in Breach of the Peace: Therefore her Majesty strictly commands and requires, That all Men forbear to break down the Pictures set upon Tombs or Graves, or to break down the Pictures or Portraits of the Noblemen, or others, in Churches, Church-Walls, Windows, &c. or any Images
what-

whatsoever, without the Advice of the Ordinary, or the Queen or Council.

And in the 12th of King *James*, some were brought into this Court, *ore tenus*, and sentenc'd for the like: The Record whereof sets forth, that whereas *William Dale*, *John Eden*, *Hugh Jones*, *Richard Jackson*, and other refractory *Puritans* and *Brownists*, had defac'd divers Crosses in the Highways in the Night-time; the Judgment of this Court was, That they should be bound to their Good Behaviour, and acknowledge their Offence at the Assizes, and every one of them pay an hundred Marks Fine to the King's Use.

The Attorney General having finish'd his Observations on the Evidence, the Court proceeded to Sentence the Defendant: And first,

Lord Cotting-
ton's Sentence.

The Lord *Cottington*, Chancellor of the Exchequer, deliver'd his Opinion as to the Fact wherewith the Defendant was charg'd, and the Punishment it deserv'd: He said, That this was a Cause of great Weight, and well deserv'd the Consideration of that Court, that it was brought by the Attorney General, against the Defendant *Sherfield*, and others, though the rest were not proceeded against; That his Offence, as prov'd by Witneses, and confess'd by himself, was the wilful Breaking of an antient Glass-Window in a Church at *Salisbury*, which he endeavour'd to justify in his Answer; and tho' he now quitted that Part of his Justification, it shew'd what Spirit he was of: These, and such like, were the Acts of *Puritans* and *Brownists*, as appear'd upon Record: And as it had been urg'd in his Defence, that he was an old Man and a wise Man, learned in the Laws, and grey Hairs were upon him; it had better extenuated his Guilt to have said he was a weak Man, or a mad Man, He took Scandal forsooth, and it was an Offence to his Conscience; but this was a tender and Scandal-receiving Conscience.

That such Attempts might create great Mischiefs, as they had of late Years, both in this Kingdom and *France*: That he did not only do
this,

this, but boasted of it, as if he had reform'd Superstition. One Day's Work, in representing the Creation, was set before another, and the Picture of a little old Man in blue must be the Picture of GOD the Father; and he might as well affirm, that any Decorations the Painter had made for Ornament, might be the Occasion of Idolatry; that making Pews in the Church, or repairing it, might be allowable, but they proceeded to Reformation: That Six of the Vestry indeed did conceive they had Power to pull down this Window, and that Mr. *Sherfield* might take it down if he pleas'd; but it was not taken, but broken down; and he verily believ'd, tho' it did not appear in the Proofs, that he knew of the Bishop's Inhibition: He acknowledg'd, that before the Fact the Chancellor oppos'd him, and his violent Manner of doing it was both prov'd and confess'd; and as to his being a Justice of Peace, he hop'd their Lordships would take Care he should be so no longer.

That he held this to be an Offence of great Scandal and Presumption; That if he or another had presented this, or any other Matter of the like Nature, to the proper Ordinary, or to his Majesty, the supreme Head, he would have done well, and have had Thanks for his so doing; but tho' it were fit to be remov'd, it was not in his or the Vestry's Power to do it; That it was like a Case adjudg'd a little before in that Court, where a great many poor Men who had Right of Common, in asserting that Right were guilty of a Riot, and justly punish'd for it; so here, tho' this Window was scandalous, yet no private Men could take it down; That in this he had shewn a great Deal of Disobedience: It was done in the Singularity of his Spirit, in Contempt of the Regal Power, the Church, and the Bishops, who deriv'd their Authority from the King: His Sentence therefore was, *That he should be no more Recorder of New Sarum, be bound to his Good Behaviour, make a publick Acknowledgment of* Page 56, *his Fault where the Fact was done, and in the Cathedral*

it; for he broke it down, he did not take it down; That if it had been done by him in Execution of the Order of Vestry, he would have consulted some Glazier in it; he executed his own Humour therefore, and not the Order of Vestry.

That there was a great Deal of Difference between Repairing and Reforming, Reformation ought alway to be by the supreme Power, and not by private Men; and when a Vestry should take Reformation upon them, he would be bold to say, it was the Highway to bring every Thing to Confusion by their Reformation: Some he observ'd, held the Churches to be idolatrous, because Common Prayers were said in them, and Masses had formerly been said there: These Reformers therefore would next Time possibly take away the Churches themselves: As to any Person's kneeling down before this Window, they might as well do so before a Saint, or one of the old Prophets, when they see their Pictures in a Church or Chapel (as in *Lincoln's Inn Chapel*;) and if they should do so, then must Mr. *Sherfield* pull down such Windows, or some Body else, whose Conscience shall be disturb'd at this Piece of Idolatry. Again, shall Mr. *Sherfield* come and pull down this Window by his own Authority, because he apprehends it to be the Cause of Idolatry in others: Why does he not apply himself to the Ordinary, that the Grievance may be remedied in a legal Way; but this is such Idolatry as must be conceal'd from the Ordinary: Suppose another private Man should come and say, It is no Cause of Idolatry, and therefore it shall stand still: Thus they differ first, and then fight about it, afterwards others come in and side with each Party, as they are inclin'd, and a Civil War or Insurrection ensues, which have frequently taken their Rise from less Occasions than this; and though, GOD be thanked, it was not so in this Case, yet it might have been, and may be so, (a prophetic Speech) if such Things shall be allow'd, in Instances of the like Nature hereafter.

As to the Injunctions and Articles produc'd in his Defence, they are only to authorize the Ordinary to enquire of Things fit to be reformed in Churches by the Churchwardens, and other Officers; and these Officers are to present the Matter to them, and so they are to be reform'd by the Power of the Ordinary in every Diocese; and the Intent was, That all Relicks of Idolatry and Superstition should be taken away; but every Memorial or Story of a Saint or Prophet is not a Relick of Idolatry or Superstition. A Monument of Superstition, or of feign'd or false Miracles, may be taken down, but Monuments or Pictures for Memorials of Saints or Prophets are not idolatrous or superstitious; and if some Men, because they conceive them so, might pull them down of their own Heads, then they might, and I doubt not but some fiery Spirits would take upon them to pull down all Cathedral Churches, because these are built in the Form of a Cross, which some precise People cannot endure: And so because some Churches stand East and West, they would pull them down, because forsooth they hold this Situation to be superstitious; but Reformation is and always hath been the Work of Authority, and Men have been punish'd by this Court for Offences of the like Nature. In the 44th of *Eliz.* many People, of their own Heads, went about breaking down Crosses, Images and Pictures of all Sorts: At *Banbury* they pull'd down a Cross; whereupon a Proclamation was publish'd by the Queen against pulling down Images and Pictures, which recites, That whereas many violent Persons had of their own Authority gone about to deface the Walls and Glass Windows of Churches, pull'd down Tombs and Monuments of Noblemen and Gentlemen, to their Dishonour and in Breach of the Peace: Therefore her Majesty strictly commands and requires, That all Men forbear to break down the Pictures set upon Tombs or Graves, or to break down the Pictures or Portraits of the Noblemen, or others, in Churches, Church-Walls, Windows, &c. or any Images
what-

whatsoever, without the Advice of the Ordinary, or the Queen or Council.

And in the 12th of King *James*, some were brought into this Court, *ore tenus*, and sentenc'd for the like: The Record whereof sets forth, that whereas *William Dale*, *John Eden*, *Hugh Jones*, *Richard Jackson*, and other refractory *Puritans* and *Brownists*, had defac'd divers Crosses in the Highways in the Night-time; the Judgment of this Court was, That they should be bound to their Good Behaviour, and acknowledge their Offence at the Assizes, and every one of them pay an hundred Marks Fine to the King's Use.

The Attorney General having finish'd his Observations on the Evidence, the Court proceeded to Sentence the Defendant: And first,

Lord Cotting-
ton's Sentence.

The Lord *Cottington*, Chancellor of the Exchequer, deliver'd his Opinion as to the Fact wherewith the Defendant was charg'd, and the Punishment it deserv'd: He said, That this was a Cause of great Weight, and well deserv'd the Consideration of that Court, that it was brought by the Attorney General, against the Defendant *Sherfield*, and others, though the rest were not proceeded against; That his Offence, as prov'd by Witnesses, and confess'd by himself, was the wilful Breaking of an antient Glass-Window in a Church at *Salisbury*, which he endeavour'd to justify in his Answer; and tho' he now quitted that Part of his Justification, it shew'd what Spirit he was of: These, and such like, were the Acts of *Puritans* and *Brownists*, as appear'd upon Record: And as it had been urg'd in his Defence, that he was an old Man and a wise Man, learned in the Laws, and grey Hairs were upon him; it had better extenuated his Guilt to have said he was a weak Man, or a mad Man, He took Scandal forsooth, and it was an Offence to his Conscience; but this was a tender and Scandal-receiving Conscience.

That such Attempts might create great Mischiefs, as they had of late Years, both in this Kingdom and *France*: That he did not only do this,

this, but boasted of it, as if he had reform'd Superstition. One Day's Work, in representing the Creation, was set before another, and the Picture of a little old Man in blue must be the Picture of GOD the Father; and he might as well affirm, that any Decorations the Painter had made for Ornament, might be the Occasion of Idolatry; that making Pews in the Church, or repairing it, might be allowable, but they proceeded to Reformation: That Six of the Vestry indeed did conceive they had Power to pull down this Window, and that Mr. *Sherfield* might take it down if he pleas'd; but it was not taken, but broken down; and he verily believ'd, tho' it did not appear in the Proofs, that he knew of the Bishop's Inhibition: He acknowledg'd, that before the Fact the Chancellor oppos'd him, and his violent Manner of doing it was both prov'd and confess'd; and as to his being a Justice of Peace, he hop'd their Lordships would take Care he should be so no longer.

That he held this to be an Offence of great Scandal and Presumption; That if he or another had presented this, or any other Matter of the like Nature, to the proper Ordinary, or to his Majesty, the supreme Head, he would have done well, and have had Thanks for his so doing; but tho' it were fit to be remov'd, it was not in his or the Vestry's Power to do it; That it was like a Case adjudg'd a little before in that Court, where a great many poor Men who had Right of Common, in asserting that Right were guilty of a Riot, and justly punish'd for it; so here, tho' this Window was scandalous, yet no private Men could take it down; That in this he had shewn a great Deal of Disobedience: It was done in the Singularity of his Spirit, in Contempt of the Regal Power, the Church, and the Bishops, who deriv'd their Authority from the King: His Sentence therefore was, *That he should be no more Recorder of New Sarum, be bound to his Good Behaviour, make a publick Acknowledgment of* Page 56, *his Fault where the Fact was done, and in the Cathedral*

Proceedings in the Star-Chamber against Cathedral Church, and that he pay a thousand Pounds Fine to the King.

Sir Robert
Heath's Sen-
tence.

Sir Robert Heath, Lord Chief Justice of the Common Pleas (who was Attorney General when the Information was brought) delivered his Opinion next: He said he agreed, That the Fact was an Offence, but he could not agree in the Manner of punishing it with the Lord that spoke last: He durst not give Encouragement to any private Man to do any publick Thing in the Church or Commonwealth, but he could not however Censure him for some Things charg'd in the Information, as that he did it in Confederacy or riotously, because it was not prov'd, or any Man prosecuted but himself: He observ'd, that the Fact had been represented to him much fouler than it was, and many others suspected to have had a Hand in it; which was the Occasion of the Charge in the Information; That it may be he took just Scandal at this Window, and it would have been no great Fault, had the Defendant pursued the Order of Vestry; That it was not prov'd he had done it contrary to the Bishop's Command, though he verily believ'd that he could not be ignorant of the Inhibition, and it might have been prov'd; yet since it was not, he should pass it over as a Thing not manifest; That tho' he condemned his Heat of Spirit and Rashness in doing it without the Bishop, he did not perceive it was done in Opposition to the Bishop or Ecclesiastical Government: Nor did it appear it was done in a prophane Manner, or was any Breach of Piety towards GOD: He thought the Offence was fit to be remov'd, and believ'd, if the Bishop had been told of it in a decent Manner, he would have reform'd it: Nor was it done in a riotous Manner; neither was it prov'd that he boasted of it, as was open'd; but as to his Place, Authority, Gravity and Wisdom in his Profession, these rather encreased his Fault than excused him; tho' he did not think the colourable Pretences he had us'd in transacting his Business, or his going secretly about it any Aggravation of his Fault: He thought Vestries had too much

much Power, and often did Things beyond their Power; and yet he knew nothing to the contrary, but the Bishops might abridge that Power; and if the Vestry had done amiss in this Case, he did not see but the Bishop might have punish'd them: He observ'd farther, That a Judge was not to act according to his own Imaginations; but according to the Proof he was ever bound to give Sentence, *secundum probata*, not *probabilia*: He should have known indeed, that the Vestry were but private Men, and had no Jurisdiction to reform, whatever they might do in Matters of Repair: If such Things might be done by private Authority in the Church, why not in the Commonwealth, which would be of ill Consequence.

He was satisfied there was Reason this Window ought to be remov'd. It was made for the Picture of GOD the Father, and so generally taken to be; but tho' it was Idolatrous, and the Bowing to it Idolatry, they should have told the Bishop of it, which since neither Mr. *Sherfield* nor the Vestry did, he was not to be excused in this: He did agree therefore to Sentence him for his Fault, but not put him out of his Recorder's Place. It was not an Offence in him as Recorder, or Justice of Peace; and he held that every Man ought to be sentenced, as near as may be, *eo modo quo Offendit*: Neither did he insist on his being bound to his Good Behaviour; he was a Gentleman of Reputation in the Country where he dwelt; and a Gentleman ought not to be bound to his Good Behaviour, but for very foul and enormous Offences; but he gave Sentence, *That he should acknowledge his Fault to the Bishop of Salisbury, and before such as he call'd to him, and that he would have him make some Satisfaction, and this in the very Kind that he had offended, at the Discretion of the Bishop, to the Sum of 500 Marks.*

Sir *Thomas Richardson*, Lord Chief Justice of the King's Bench, in delivering his Opinion of the Fact, said, he had no Reason to believe that Mr. *Sherfield* took the Picture of the old Man in

Sir *Thos. Richardson's*
Sentence,

Page 37.

red and blue for God the Father, for he very well knew no Picture or Resemblance could be made of him; but if he did take it for an Idolatrous Picture, or the Occasion of Idolatry, he should have apply'd himself to the proper Judge to have had it remov'd; but his Fault was, that in the Twenty Years that he continued offended at it, he never resorted to the Bishop to complain thereof, but defaced it by Colour of an Order of Vestry, which was indeed but a meer Colour; for Mr. *Sherfield* was so popular a Man in *Salisbury*, that he might have commanded an Order of Vestry, and he wonder'd that there should be two to oppose him; but the Vestry had nothing to do to Reform; this entirely belong'd to the Bishop: The Power of the Church-wardens, by the Canons and Constitution, was but to enquire and present; the Bishop, the supreme Ordinary in his Diocese, and the Archdeacon, who is *Magnus Oculus Episcopi*, are the proper Agents in a Work of Reformation, or what Mischiefs would ensue.

In the 3d *Edw. VI. Cap. 10.* it was enacted, That Reformation in Churches should be made by Archbishops and Bishops, and their Commissaries. This was repealed by Queen *Mary*, but revived in the first Year of King *James*, and the Times ought to follow the Wisdom of an Act of Parliament: This Attempt of Mr. *Sherfield*'s was of dangerous Consequence; if such Men were permitted to be Reformers, they would reform Things that needed no Reformation; he had seen in some Churches, Stories of the *New Testament*, some in Windows, some in Needle-work and Woven Work; and God forbid, he said, that these should be taken away; nor did *Sherfield* take the Window down, but break it, and that in a Place ever esteemed sacred and privileged, where it was an Offence to use Violence, though but to the Windows; he held, he did ill in doing it in private also, and not taking a Glazier with him: However, he was of Opinion that the Defendant was not disaffected to the Government, for to his Knowledge he had done good in that City since he

he went the Circuit; so that there was neither Beggar nor Drunkard to be seen there; that he was also outwardly conformable to the Ecclesiastical Government; he had been long acquainted with him, and sat by him at Church, and observed he brought his Bible with him, with the *Apocrypha* and *Common Prayer Book* in it, not of the New Cut.

That it did not appear he had done this after Notice of the Bishop's Inhibition, by the Evidence, and he had denied it expressly on his Oath, and therefore he did not believe he had Notice.

The Defendant had indeed offended in arrogating to himself Power and Authority, which did not belong to him, and his Zeal and good Intention would not excuse him; Zeal should not transport a Man beyond Bounds; if it did, it ceased to be Zeal, it was Rashness and Presumption; but in passing Sentence he must take the Liberty of acting according to his own Conscience, and to judge and inflict Punishment *secundum quantitatem delicti*: The Defendant's great Offence was, not applying to the Ordinary for Redress, and was rather an Error of Omission, than Commission. He considered also, that every Punishment in this Court should be *ad Reformationem non ad Ruinam*; therefore he did not agree to dismiss him from his Recordership or his Place of Justice, or to bind him to his good Behaviour. He was a grave Bencher, a learned Man, and well governed hitherto, however his indiscreet Zeal transported him to this Error, and this was the first Offence he had ever heard of him. He agreed as to his *Submission and Confession of his Fault to the Bishop, and such others as he should call to him*, but for the 1000 *l.* Fine to the King, he thought it too much, as he did the 500 Marks too little; he should therefore go between both, and set 500 *l.* and Imprisonment, according to the Course of the Court.

Page 58.

Secretary Windebank agreed in his Sentence with the Lord Cottington, Chancellor of the Exchequer, Secretary Windebank's Sentence.

Secretary
Cook's Sen-
tence.

Mr. Secretary *Cook* said, he should observe a good Rule in his Sentence, which was not to make Faults where there were none, nor to make them greater than they were in themselves; that of seven Crimes, with which the Information charged the Defendant, there was but one that stuck with him, and that was, his Defacing of an Ornament. And was this so much? This Picture, the Secretary was of Opinion himself, was made for God the Father. That there had antiently been much Trouble about Images in Churches; the first he had read of was about the second *Nicene* Council; that Imagery or Image-worship grew up after it had slyly crept in, in this Manner. First, they were made for Stories, to teach that to the Eye which the Word doth to the Ear: Then they began to shew some Reverence on approaching them, but not to the Images; the Reverence was done to God. Afterwards they were brought out of the Windows and Walls into the Church, and at last placed upon the Altars, Worshipped and Offered to; however, they that would excuse it, said, it was but a relative Worship, and *St. Gregory of Valentia* says, that in his Time they gave Co-worship to the Images with God. But our Church does not allow any Adoration to Images or Pictures, or the Image of God the Father to be in the Church; so that the Matter of the Charge, the taking away such Picture, is no Offence, but the Manner of doing it is the great Offence.

Reformation in a private Man is not to be permitted; but he conceived he had some Opinion that the Vestry, or his own Authority, might warrant him in it; but he should then have done it according to the Authority; and though private Men were not to break Church Windows at their Pleasure, yet he conceived the Danger of encouraging others to break down such Windows, was not so great, as the Occasion of Triumph would be to ill affected Persons, if that Court should too severely punish an Error in pulling that down which the Church disallows. Therefore an Acknowledg-
ment

ment to the Bishop, in the Presence of such as he should appoint, that he had not done well in not asking his Leave, he held sufficient, and that he be admonished to conform himself to the Government. And he acquitted him of his Fine and all other Punishment.

Sir Thomas Farmin observed, That the Charge against Mr. Sherfield was, the doing a Thing, which, if it had been done with answerable Circumstances, had been no Fault in him; and tho' it was an Offence to be over zealous and forward to undertake such Things as belonged to the Supreme Power, yet it was not so great a Crime, as that they should ruin him by their Sentence, and that therefore, he agreed with the Lord Chief Justice of the Common Pleas, in his Sentence.

Sir Thomas
Farmin.

Sir Henry Vane observ'd, That they were all agreed that the Fact was Criminal, and that he had done what was not suitable to his Wisdom and Experience; That he could not but know, if he had an Order, he must pursue it; that he admired, as he was a Lawyer, he should be ignorant of the Proclamation to the contrary; that he was a learned Man, and a Parliament Man, and he had known him give wise Advice in that Assembly: All which, he thought, aggravated his Offence, and made it Wilfulness in him; and as to his Conformity, the doing a Thing contrary to his Profession of Conformity, induces him to pass the heavier Sentence on him; *Viz. That he should pay 1000 l. acknowledge his Offence in the Cathedral Church of Sarum, before the Bishop, Prebends and Canons, but not be dismissed from his Recordership.*

Sir Henry Vane.

Sir Thomas Edmonds agreed with the Lord Chief Justice Heath in the Sentence.

Sir Thomas Ed-
monds.

Then the Bishop of London, Dr. Laud, proceeded to give his Sense of the Fact, and the Punishment it deserved. He said, There was sufficient Proof of the Defendant's Committing the Fact, as well from his own Confession, as the Testimony of Witnesses; and though it was not proved he knew of the Bishop's Inhibition, he was persuaded

Bishop Laud.
Page 59.

he did ; however, as the Evidence was defective in that Point, he should not Censure him for it : Vestries, he observed, were made and suffered first by Negligence, yet being of long Continuance they could not easily restrain their Power ; as he had an Instance in the Parish-Church of St. *Laurence*, where the Vestry not agreeing about an Election, he interposed as Ordinary ; whereupon he was inhibited by his Grace of *Canterbury* ; that afterwards it being referred to him by the Archbishop, a Prohibition was sent him at Common Law.

That notwithstanding several Things had been proved concerning his Conformity, he was confident, upon good Information, that had the Cause been followed, as well as it was defended, many more Things might have been proved against him ; and that it would have appeared he had done more Harm under-hand in his Place than good. The Bishop said, He was not of Opinion that Images and Pictures were not in the Church till the Time of *Gregory the Great*, or that the first Trouble about them was at the second Council of *Nice*. St. *Gregory*, who lived 600 Years after Christ, saith of Images, *Vetustas admisit*, &c. and *Gregory Nazianzen* 200 Years before this, when the Emperor besieged the City he was Bishop of, to move him to Compassion, said, that the Citizens above all their Losses, took to Heart the Spoiling of their Statues : *Et hoc acerbum* (saith he) ; nay, we find them in the Church 200 Years after Christ. In *Tertullian's* Time, one of the antientest Fathers, there was painted on the Chalice, the Picture of the Shepherd bringing home the lost Sheep upon his Shoulders : And this was objected to *Tertullian*, who in his later Days fell into the Errors of the *Montanists*, who disallowed second Marriages, and Repentance after Baptism, affirming, that no Repentance was left to him that sinned after Baptism ; against which Error, the Church used this Symbol of the Shepherd bringing home the lost Sheep.

That

That in the Time of that antient Father *Irenæus*, held to be the Scholar of *St. John*, they had the Picture of *Jesus Christ*, and they had it from the *Gnosticks*, who used Adorations and Sacrifices before it, and the Holy condemned that Picture: Because, says he, the *Gnosticks* do that to this Picture which the Heathens did to their Idol Gods: But that it had been a disagreeable Thing to remove Pictures and Images. The Bishop of *Cyrene* breaking down the Pictures in Churches, his People were so offended at it, that they rose against him, and were hardly appeased: That of late they had experienced the same Mischiefs in *France* and the *Low Countries*, and in this Kingdom also in the Beginning of the Reformation; and in *Germany*, when *Carlostadius*, and his Followers, went about pulling down and defacing Images in Churches, What a Stir was there? And had not *Luther* himself come and appeased the Multitude by his timely Advice, declaring, that the Work of Reformation ought to be left to the supreme Magistrates, much more Mischief had ensued.

When Images were brought into Churches, as one Side fell to worshipping, so the other Side fell to breaking and defacing them, which occasioned many Tumults, and among the rest there happened a very sharp Contention, in the Reign of *Constantine*, by reason of the prevailing of the Worshippers of Images.

The Empress gave her Voice against her Son *Constantine's* Assuming the Empire, on account of his Defacing the Images in the Churches. As for that gross Council of *Nice*, (pardon that gross Term, which he thought they deserved,) They decreed the same Honour to the Image, as to the Life, whether it were the Picture of Man, God or Christ; and decreed further, that a Man should rather endure Penury, than do Violence to a Picture: And their absurd Distinction of *Latria* & *Doulia*, &c. though it was true, there was a great Difference between an Image and an Idol, yet to Page 60. worship the one as well as the other, was unlawful.

As to the Matter in Question, *he did not think it lawful to make the Picture of God the Father*; but it is lawful to make the Picture of Christ, who is the expresse Image of his Father; he did not mean that the Picture of Christ, as God the Son, may be made, for the Deity cannot be pourtrayed or pictured, though the Humanity may; the Representation of God the Father, as he is called in the Prophet *Daniel, the Antient of Days*, he thought had been allowed to be made like an old Man (though erroneously); this the *Lutherans* admit; whether it was Idolatrous or Superstitious was not the Question; and he should beg Leave not to declare his Opinion in it. * But *Sherfield* did this in Contempt,

* Here, the Editor of these Proceedings in the *Folio* Edition, makes this malicious Reflection: That *Bishop Laud* shew'd his Opinion, when upon his Promotion to the See of *Canterbury*, he caus'd the same Kind of Pictures to be set up in his Chapels at *Lambeth* and *Croyden*, for which he quotes *Rushworth's Collections*, Vol. II. p. 273. from whence he would insinuate, That the Bishop caus'd the Pictures of God the Father to be painted in the Windows of those Chapels, which the Editor knew very well was false; for the Bishop does not only declare expressly in this Speech, *That he did not think it lawful to make the Picture of God the Father*; but at his Trial before the *Rump-Parliament*, which this Gentleman was very well acquainted with, they could fix no such Thing upon him; they charg'd him indeed with Repairing the Windows of his Chapel with colour'd Glass, after the Patern of the Pictures in the *Mass-book*, contrary to the Statute of *Edward VI.* but this is far from charging him with setting up the Picture of God the Father there; And to this he answer'd, It was true, the Windows being miserably patch'd, he did, by the Assistance of his Secretary, discover the Story by what remain'd, and got them repair'd, but not by the *Roman Missal*, as was suggested; nor did he believe that Story was in the *Missal*; and that those Windows contain'd the whole Scripture Story from the Creation.

He was also charg'd with having superstitious Pictures in the Gallery at *Lambeth*, particularly, that in one, which was a Picture of Four of the Fathers, there was a Dove, which they suggested stood for the Holy Ghost; there was also an *Ecce homo*, or a Picture of *Pilate's* bringing forth *Jesus* to the Multitude.

To which his Grace answer'd, That as for the Dove standing for the Holy Ghost, it was more than the Witness could depose; and both as to that and the *Ecce homo*, he answer'd out of *Golain*, That it was lawful to make a Picture of any Thing that might be seen; that the Dove was visible, and when

tempt, or at least in Neglect of the Church and the King's Authority; for the Church, as well as the Civil Power, derives its Authority from the King; he should censure him therefore for breaking the Window; whether it was fit to be in the Church or not, it was a violent raging Act, of ill Consequence, and required the timely Censure of that Court: Had it been the Idol of *Jupiter*, and Divine Worship paid to it, it had not been lawful for Mr. *Sherfield*, or any private Man, to have defaced it, as may be proved by Scripture: The Brazen Serpent, appointed by God himself, became an Idol, and the People committed Idolatry with it; but none presumed to break it down but *Hezekiah* the King. The Calves of *Jeroboam* were plainly Idols, and remained a long Time, but were not pulled down, till *Josiah* the King did it by his supreme Power.

The second Commandment says, *Thou shalt not make a graven Image, or Picture to thy self: (No not to worship it)* but there was no Command or

when *Pilate* said, *Ecce*, it was, that the *Jews* might see him: But had the Picture of God the Father been in any of these Places, how easy had it been for the Commons to have retorted upon him, That he had set up the Picture of God the Father, whom no Eye hath seen; but the Bishop goes on, and observes, that whereas it was said, That every Picture of Christ was a Lie, because whole Christ could never be pictur'd: By the same Argument, it was unlawful to make the Picture of a Man, for the whole Man could not be pictured; never any one pretended to draw a Picture of the Soul, and the *Ecce homo* was no more than a Picture of the Humanity of Christ, and might as lawfully be drawn as that of any other Man. That the Third Picture he was charg'd with, related to what our Saviour says of the true Shepherd's entering in at the Door, &c. And there the Pope and the Fryars are made climbing in at the Windows; and how this introduc'd Popery, he could not conceive; but however, these Pictures hung in the Gallery forty Years before his Time. See *State Trials* in *Folio*, Vol. I. p. 862, &c.

N. B. These Pictures in the Gallery were not defac'd by the Puritans during the Rebellion, as the Windows of the Chapel were; and the Chapel it self turn'd into a Dancing-Room, Archbishop Parker's Tomb being first demolish'd, which was in the Middle of it, and his Bones thrown to the Dunghill.

Example

he did ; however, as the Evidence was defective in that Point, he should not Censure him for it : Vestries, he observed, were made and suffered first by Negligence, yet being of long Continuance they could not easily restrain their Power ; as he had an Instance in the Parish-Church of St. *Laurence*, where the Vestry not agreeing about an Election, he interposed as Ordinary ; whereupon he was inhibited by his Grace of *Canterbury* ; that afterwards it being referred to him by the Archbishop, a Prohibition was sent him at Common Law.

That notwithstanding several Things had been proved concerning his Conformity, he was confident, upon good Information, that had the Cause been followed, as well as it was defended, many more Things might have been proved against him ; and that it would have appeared he had done more Harm under-hand in his Place than good. The Bishop said, He was not of Opinion that Images and Pictures were not in the Church till the Time of *Gregory the Great*, or that the first Trouble about them was at the second Council of *Nice*. *St. Gregory*, who lived 600 Years after Christ, saith of Images, *Vetustas admisit*, &c. and *Gregory Nazianzen* 200 Years before this, when the Emperor besieged the City he was Bishop of, to move him to Compassion, said, that the Citizens above all their Losses, took to Heart the Spoiling of their Statues : *Et hoc acerbum* (saith he) ; nay, we find them in the Church 200 Years after Christ. In *Tertullian's* Time, one of the antientest Fathers, there was painted on the Chalice, the Picture of the Shepherd bringing home the lost Sheep upon his Shoulders : And this was objected to *Tertullian*, who in his later Days fell into the Errors of the *Montanists*, who disallowed second Marriages, and Repentance after Baptism, affirming, that no Repentance was left to him that sinned after Baptism ; against which Error, the Church used this Symbol of the Shepherd bringing home the lost Sheep.

That

That in the Time of that antient Father *Irenæus*, held to be the Scholar of St. *John*, they had the Picture of *Jesus Christ*, and they had it from the *Gnosticks*, who used Adorations and Sacrifices before it, and the Holy condemned that Picture: Because, says he, the *Gnosticks* do that to this Picture which the Heathens did to their Idol Gods: But that it had been a disagreeable Thing to remove Pictures and Images. The Bishop of *Cyrene* breaking down the Pictures in Churches, his People were so offended at it, that they rose against him, and were hardly appeased: That of late they had experienced the same Mischiefs in *France* and the *Low Countries*, and in this Kingdom also in the Beginning of the Reformation; and in *Germany*, when *Carlostadius*, and his Followers, went about pulling down and defacing Images in Churches, What a Stir was there? And had not *Luther* himself come and appeased the Multitude by his timely Advice, declaring, that the Work of Reformation ought to be left to the supreme Magistrates, much more Mischief had ensued.

When Images were brought into Churches, as one Side fell to worshipping, so the other Side fell to breaking and defacing them, which occasioned many Tumults, and among the rest there happened a very sharp Contention, in the Reign of *Constantine*, by reason of the prevailing of the Worshippers of Images.

The Empress gave her Voice against her Son *Constantine's* Assuming the Empire, on account of his Defacing the Images in the Churches. As for that gross Council of *Nice*, (pardon that gross Term, which he thought they deserved,) They decreed the same Honour to the Image, as to the Life, whether it were the Picture of Man, God or Christ; and decreed further, that a Man should rather endure Penury, than do Violence to a Picture: And their absurd Distinction of *Latria* & *Doulia*, &c. though it was true, there was a great Difference between an Image and an Idol, yet to Page 60. worship the one as well as the other, was unlawful.

As to the Matter in Question, *he did not think it lawful to make the Picture of God the Father*; but it is lawful to make the Picture of Christ, who is the expresse Image of his Father; he did not mean that the Picture of Christ, as God the Son, may be made, for the Deity cannot be pourtrayed or pictured, though the Humanity may; the Representation of God the Father, as he is called in the Prophet *Daniel, the Antient of Days*, he thought had been allowed to be made like an old Man (though erroneously); this the *Lutherans* admit; whether it was Idolatrous or Superstitious was not the Question; and he should beg Leave not to declare his Opinion in it. * But *Sherfield* did this in Contempt,

* Here, the Editor of these Proceedings in the *Folio Edition*, makes this malicious Reflection: That *Bishop Laud* shew'd his Opinion, when upon his Promotion to the See of *Canterbury*, he caus'd the same Kind of Pictures to be set up in his Chapels at *Lambeth* and *Croyden*, for which he quotes *Rushworth's Collections*, Vol. II. p. 273. from whence he would insinuate, That the Bishop caus'd the Pictures of God the Father to be painted in the Windows of those Chapels, which the Editor knew very well was false; for the Bishop does not only declare expressly in this Speech, *That he did not think it lawful to make the Picture of God the Father*; but at his Trial before the *Rump-Parliament*, which this Gentleman was very well acquainted with, they could fix no such Thing upon him; they charg'd him indeed with Repairing the Windows of his Chapel with colour'd Glass, after the Patern of the Pictures in the *Mass-book*, contrary to the Statute of *Edward VI.* but this is far from charging him with setting up the Picture of God the Father there; And to this he answer'd, It was true, the Windows being miserably patch'd, he did, by the Assistance of his Secretary, discover the Story by what remain'd, and got them repair'd, but not by the *Roman Missal*, as was suggested; nor did he believe that Story was in the *Missal*; and that those Windows contain'd the whole Scripture Story from the Creation.

He was also charg'd with having superstitious Pictures in the Gallery at *Lambeth*, particularly, that in one, which was a Picture of Four of the Fathers, there was a Dove, which they suggested stood for the Holy Ghost; there was also an *Ecce homo*, or a Picture of *Pilate's* bringing forth *Jesus* to the Multitude.

To which his Grace answer'd, That as for the Dove standing for the Holy Ghost, it was more than the Witness could depose; and both as to that and the *Ecce homo*, he answer'd out of *Golain*, That it was lawful to make a Picture of any Thing that might be seen; that the Dove was visible, and when

tempt, or at least in Neglect of the Church and the King's Authority; for the Church, as well as the Civil Power, derives its Authority from the King; he should censure him therefore for breaking the Window; whether it was fit to be in the Church or not, it was a violent raging Act, of ill Consequence, and required the timely Censure of that Court: Had it been the Idol of *Jupiter*, and Divine Worship paid to it, it had not been lawful for Mr. *Sherfield*, or any private Man, to have defaced it, as may be proved by Scripture: The Brazen Serpent, appointed by God himself, became an Idol, and the People committed Idolatry with it; but none presumed to break it down but *Hezekiah* the King. The Calves of *Jeroboam* were plainly Idols, and remained a long Time, but were not pulled down, till *Josiah* the King did it by his supreme Power.

The second Commandment says, *Thou shalt not make a graven Image, or Picture to thy self: (No not to worship it)* but there was no Command or

when *Pilate* said, *Ecce*, it was, that the *Jews* might see him: But had the Picture of God the Father been in any of these Places, how easy had it been for the Commons to have retorted upon him, That he had set up the Picture of God the Father, whom no Eye hath seen; *but the Bishop goes on, and observes*, that whereas it was said, That every Picture of Christ was a Lie, because whole Christ could never be pictur'd: By the same Argument, it was unlawful to make the Picture of a Man, for the whole Man could not be pictured; never any one pretended to draw a Picture of the Soul, and the *Ecce homo* was no more than a Picture of the Humanity of Christ, and might as lawfully be drawn as that of any other Man. That the Third Picture he was charg'd with, related to what our Saviour says of the true Shepherd's entering in at the Door, &c. And there the Pope and the Fryars are made climbing in at the Windows; and how this introduc'd Popery, he could not conceive; but however, these Pictures hung in the Gallery forty Years before his Time. See *State Trials* in *Folio*, Vol. I. p. 862, &c.

N. B. These Pictures in the Gallery were not defac'd by the Puritans during the Rebellion, as the Windows of the Chapel were; and the Chapel it self turn'd into a Dancing-Room, Archbishop Parker's Tomb being first demolish'd, which was in the Middle of it, and his Bones thrown to the Dunghill.

Example

Example for breaking Images when they are made, without publick Authority.

The People committed Idolatry with their Images in St. *Austin's* Time, and many would have pulled them down; No, says he, first preach them out of their Hearts, and wait till Authority is given you to pull them down by the supreme Power; and *Gerardus* the *Lutheran*, was of the same Opinion: The Homily against Idolatry, so much magnified, shews it to belong to the supreme Magistrate; you see St. *Paul's* Practise in the 17th Chapter of the *Acts*; he saw they had set up an Altar *To the unknown God*; yet he did not go about to pull it down, but to teach them that God which they knew not.

Having shewn the several Aggravations of the Defendant's Offence, (which being mentioned by others before, are omitted here) he proceeds to observe, That when *Sherfield* was breaking the Window in Question, God was pleased to give him a Fall, and it was a Mercy his Back was not broke upon the Edge of the Pew; yet this was so far from drawing a Confession from him that he had done amiss, that he was informed, he gave out, That he was persecuted for God's Cause; but sure he was, the Defendant had persecuted the poor Sexton of the Church, and sent him to Prison, and would have kept him there, if the Bishop of *Salisbury* had not found Bail for him, and would also have turned him out of his Place, if the Bishop had not prevented it: That just upon the Commission of the Fact a new Lecturer came to Town, who took for his Text, the 121st Verse of the 119th *Psalms*, (*viz.*) *I have executed Judgment and Justice, leave me not to mine Oppressors*; which the Bishop seems to insinuate, was done by the Encouragement or Procurement of the Defendant, and agreed with the Lord *Cottington*, Chancellor of the Exchequer, in his Sentence.

Lord *Wentworth* delivered his Opinion next, He said, he thought it an Aggravation of the Fact, that it was committed by a Man of Learning;

Page 61.

Lord *Wentworth's* Sentence.

ing; that People in those Days thought themselves wiser than their Teachers, and as to the Defendant's doing it out of Conscience and Zeal for the Honour of God, he was out of his Element. *Uzzah* touch'd the Ark with a good Intention, but doing it without Warrant, was punished. It was not for a Lawyer to meddle with Divinity and governing the Church; the Vestry could not empower him to do this, and it was audacious in him to pretend to justify the Fact under those Pretences: That Vestries frequently exceeded their Power, and it was high Time they were regulated; nor should he forbear to punish the Offence for fear of giving Occasion of Triumph to some; he thought Impunity would encourage Men of another Stamp to do the like, of which there was great Danger, and agreed with the Lord *Cottington* in his Sentence.

Sir *Robert Naunton*, Master of the Court of Wards, gave no Sentence, because he was not in Court, at the Beginning of the Hearing, that Day. Sir Robert Naunton.

Lord *Newburgh*, Chancellor of the Dutchy of *Lancaster*, gave no Sentence, for the same Reason. Lord Newburgh.

Lord Viscount *Falkland* agreed with the Lord *Cottington* in his Sentence. Lord Falkland.

Lord Viscount *Wimbleton* agreed with the Lord Chief Justice *Heath* in his Sentence. Lord Wimbleton.

Earl of *Holland* gave no Sentence, because he was not there at the Beginning. Earl Holland.

Earl of *Devon* agreed with the Lord *Cottington*. Earl of Devon.

The Earl of *Dorset* next deliver'd his Thoughts: He said he thought the Prosecutors ought to be punish'd for having made a great Noise of terrible Things, seven in Number, and had not endeavour'd to prove many of them. What had been prov'd was, that a Window in a Church had been broken, because the Image of God the Father was in it, and had it been done by the proper Judge, it had been well done: If all unlawful Pictures and Images were taken out of Churches, he thought it were a good Work, for they were but Vanities and Teachers of Lies. *The Anti-*
ent

ent of Days in Daniel, did not Warrant any Man to frame a Picture of God like an old Man: But it shewed the Eternity of God, that was before all Times and Days: And this being intended to represent the Creation, this Picture must be intended for the Picture of God the Father, and therefore was unlawful; and no Man ever saw God; but we picture *Christ* because he was Man as well as God. And the Holy Ghost appeared in the Similitude of a Dove; but he wish'd there was no Image of the Father either in the Church, or out of the Church. He observed further, that this was done out of a little too much Zeal, his Conscience was tender, and there was a Difference between a Fault done out of Zeal and out of Malice. The Vestry indeed had no Power, and it was an Error in him to think they had, without the Bishop of the Place. He would not be thought to say or do any Thing against the Authority of these Reverend Prelates; for whenever that Authority went down or decay'd, *The Monarchy must die with it*. He thought they were inseparable. He observed further, that it was the Defendant's Opinion, that it was their Lay Fee; and as he had repented him of that Opinion, and departed from his Justification, he would not destroy a Man for such an Offence; that he did it privately and without Noise, he thought a Diminution of his Fault also; nor could it aggravate his Fault that he was conformable, and being charged with Non conformity, he had done well and wisely to clear himself by Proof. He should not sentence him for three or four Papists, or forbear to sentence him on Account of as many Schismatics; but the Reason he should not sentence him, was to avoid the Tumults of rude and ignorant People, whom he had punished for Drunkeness and Disorders: These would triumph upon it, and say, *this have you got by your severe Government*, which would be but an ill Requital of his Care.

He would not have him lose his Place therefore, or be bound to his good Behaviour: But for *having done it without the Authority of the Ordinary,*

nary, he would have him make such an Acknowledgment to the Bishop of Sarum, and in such Manner, as he should think fit; but he would set no Fine upon him.

Earl of Pembroke and Montgomery gave no Sentence. Earl of Pembroke.

Earl of Arundel said he found Fault with the Defendant for keeping close this Offence to his Conscience for twenty Years together, and not revealing it to the Bishop in all that Time, who might have been able to direct him, and going of his own Authority to break down this Window, and defacing the Image of God in Man; he left the Ordinary who had Power, and went to the Vestry who had none; and, in his fanatical Humour, broke the Order of Vestry as well as the Window: He agreed therefore in his Sentence with the Lord Cottington. Earl of Arundel.

Earl of Manchester, Lord Privy Seal, delivered his Opinion next; he observed, as to the breaking of this Window, because of the Idolatry it occasioned, that if this had been a Man's Lay Fee, he was bound to have done it; and it having been done by Mr. *Sherfield* upon an Opinion he had of the Power of the Vestry, though it was an Error in him, it was pardonable: That how long soever Pictures had been in Churches, he held it a very offensive Thing to make such a Picture or Representation of God. It is said in the Prophet *Isaiab*, *What Likeness or Similitude will you make of me, saith the Lord*. It is alledged indeed that the Idolatry is in the worshipping the Image. Take a wise Man's Counsel, *The painted Picture inticeth the Ignorant to Idolatry*: He professed it would offend his Conscience, he was of such a pure Conscience. He observed that this Cause had many Judges, even as many as there were Auditors. All might take Notice that their Votes were to maintain Order and Government; yet not to uphold Superstition. He should sentence the Defendant to make Acknowledgment to the Bishop, but not Dis-Recorder him or Fine him.

Archbishop of
York.

Page 63.

Dr. Neale, Archbishop of *York*, in delivering his Opinion observ'd, that the Defendant endeavoured to justify the Fact by an Order of Vestry, but could not conceive what Authority they had. The Vestry was a Place where the Ornaments of the Church were kept antiently, and since these were gone, there were Meetings of the Parishioners to agree upon the Repairs and Assessments for the Church and Poor, and from these Meetings no Parishioners were excluded, till some Bishops, to avoid Tumults, by special Instruments under their Seals, appointed a certain Number to be Vestrymen, to order Matters for the Repairs of the Church, Bread and Wine for the Communion, and the like; but the Vestry could make no Reforms, nor could the Defendant derive any Power from them. As to the Matter of the Offence, the Picture of God the Father, no Man ever took upon him to paint the Essence of the Deity: But if the Question was, Whether it was lawful to express God the Father, by any Representation? He thought it not unlawful in it self. The Eternity of *Alpha* and *Omega* appeared in Christ, who was the Image of his Father. As for the Homilies of the Church, and especially that against Idolatry, in King *Edward's* Reign, he knew those Times could not bear them; but they were not to be taken or understood so, as to allow of no Manner of Pictures or Images of Christ upon the Cross, though it might seem so. It was like the forbearing of Food for a Time, for fear of giving Offence to weak Minds; for there might be very good Use made of a Crucifix: For Instance: He that could look upon a Crucifix, and not adore it, might contemplate on those Sins which could not be expiated but by the Blood of his Saviour upon the Cross, and of the great Love of Christ, in dying for the Sins of Mankind; and that as he had given himself for him, he might rely on his Support in all his Wants and Distresses: It must needs work a deep Impression on his Heart; but if it became the Occasion of Superstition and Idolatry, he would rather

rather want the Thing, and all the good Uses of it, than propagate Idolatry.

He observ'd farther, that the Reverend Dr. *Jewel*, Bishop of *Salisbury*, had a Commission in his Time, and took down all Idolatrous Windows in Churches, putting up clear Glafs in the room of them, and had left this Window; which if he had thought Idolatrous, he would have reformed. He observ'd also, that the Defendant had insisted in his Answer, That the Authority, which the late Queen *Elizabeth* had to reform, and set forth her Injunctions, which was given her by *Parliament*: But his Grace affirm'd, that the Statute of the 1 *Eliz.* was but a Declaratory Act; for this Authority was vested in the Crown, exclusive of the Parliament; and concurr'd with the Lord *Cottington* in every Part of his Sentence.

The Lord Keeper *Coventry* delivered his Opinion last; he said, he doubted not but this Cause would produce a good Effect: That great Audience, consisting of Gentlemen from all Parts of the Kingdom, could not but be satisfied that they thought it not lawful to represent the Deity by Picture, and consequently condemned Superstition. But on the other Hand, they were resolutely bent to maintain the Government of the Church by Bishops: That had the Charges in the Bill been proved, he should have trebled the Fine set by their Lordships. Never was Cause worse prosecuted; yet they were to consider only what was proved against the Defendant. Here was an Information brought against Mr. *Sherfield*, and ten others; but the Ten were not so much as required to answer. The Defendant was charged with Nonconformity, and yet the Prosecutor had not exhibited one Witness or Interrogatory, to prove it. He was charg'd with committing the Fact in Contempt of the Ecclesiastical Power, and the Bishop's Inhibition; and not so much as an Attempt made to prove he had Notice of it: And though the Bishop, or Ecclesiastical Judge, might not be bound to give Notice of his Judicial Acts in their ordinary Proceedings, and their own Jurisdictions; yet where they

Lord Keeper.
Page 64.

they would charge a Man with a Contempt in a criminal Court, as here, they must prove he had Notice of the Inhibition.

His being charg'd also with *profanely* demolishing this Window, gave them Occasion to enquire into the Nature of these Pictures; and he look'd upon them to be unlawful, and irreligious Pictures of God the Father: That the Opinion of making the Image of God, according as *Daniel* describes him, *The Antient of Days*, in the Form of an old Man, as Bishop *Laud* observed, was erroneously grounded: And to bring God as he appeared unto *Daniel* to be represented in the Creation, which was long before, he thought somewhat improper: As to Mr. *Sherfield* boasting of the Fact, it was not proved he did. The only Fact prov'd against him was the Breaking the Window, under Colour of an Order of Vestry, without the Bishop's Concurrence. What Vestries were, he could not find in the Books of the Common Law, tho' he had read much of Church-Wardens and their Actions: If a Vestry was a Meeting of the Minister, Church-Wardens and Parishioners, they might order Matters of Reparation, but not of Reformation; and this was not derogatory from the Authority of the Bishop, but subordinate to it; though through the Neglect of the Prelates, Vestries might have encroached upon their Government, and would be still more disorderly, if they were not regulated. Mr. *Sherfield* indeed had proved by Way of Prescription, that the Vestry had made Reparations for sixty Years; but he was indiscreet, that he had not pursued their Order. Had he taken down white Glass, he did not see why he should sentence him, this Fact being not prosecuted in an Ecclesiastical ordinary Course: He did believe that when the Defendant put in his Answer, he thought it to be a Lay Fee. And as upon better Information he confessed it to be subject to the Bishop, he thought his Fault a great deal the less, inasmuch as it appeared he did not oppose the Ecclesiastical Authority: And he was glad to observe that none of their Lordships, who
had

had delivered their Opinions that Day, had let fall any Thing that might be interpreted to allow the picturing of the Deity, or the Worship of Images. He was of the same Opinion of Mr. Secretary Cooke, *That the Defendant be sentenc'd by Way of Reprebension and Admonition, and held it fit, That he made his Acknowledgment before the Lord Bishop, and repaired the broken Window in a decent Manner.*

Upon collecting the Votes, it appear'd, That Nine of the Lords agreed to set a Fine of 1000*l.* on the Defendant; That he should be put out of his Place of Recorder, be bound to the Good Behaviour, make an open Acknowledgment of his Fault in the said Church of St. *Edmond's*, and also in the Cathedral of *Sarum*, before the Bishop, Dean, and Prebends of that Church.—— Nine others were of Opinion, that he should not lose the Office of Recorder, but that he should make an Acknowledgment in private to the Bishop of *Sarum*, in such Manner, and before such Persons, as the Bishop should appoint: As to the Fine, Four were for none, and Five gave their Voices for a Fine, Four of whom set 500 Marks, and one of them, (*viz.*) The Lord Chief Justice *Richardson* 500*l.* which 500*l.* was taken for the King, because, according to the Rules of the Star-Chamber, when there was a Difference of Fines in an odd Number, the King was to have the middle Fine: Whereupon the Sentence of the Court was entred as follows:

The Votes of the Lords collected.

Page 69.

' The Defendant being troubled in Conscience,
' and grieved with the Sight of the Pictures
' which were in a Glass Window in the Church of
' St. *Edmond* in *New Sarum*, one of the said
' Pictures, to his Understanding, being made to
' represent *God the Father*, did procure an Order
' to be made by the Vestry (whereof himself was
' a Member) that the Window should be taken
' down, so as the Defendant did, at his own
' Charge, glaze it again with white Glass; and
' by Colour of this Order, the Defendant, with-

The Sentence agreed on.

' out acquainting the Bishop, or his Chancellor
 ' therewith, got himself into the Church, made
 ' the Doors fast to him, and then with his Staff
 ' brake divers Holes in the said painted Window,
 ' wherein was described the Creation of the
 ' World; and for this Offence committed with
 ' Neglect of Episcopal Authority, from whom the
 ' Vestry derive their Authority, and by Colour of
 ' an Order of Vestry, who have no Power to alter
 ' or reform any of the Ornaments of the Church,
 ' the Defendant was committed to the *Fleet*,
 ' fin'd 500*l.* and ordered to repair to the Lord
 ' Bishop of his Diocese, and there make an Ac-
 ' knowledgment of his Offence and Contempt, be-
 ' fore such Persons as the Bishop would call unto
 ' him.

*PROCEEDINGS in the Star-
 Chamber against Dr. JOHN BAST-
 WICK, Mr. HENRY BURTON, and
 WILLIAM PRYNN, Esq; * for several
 Libels, 14 June, 13 Car. I. 1637.
 wrote by his (I suppose 'tis meant in
 the Folio Edition, their) Friends.*

* Clarendon's
 Hist. Vol. I.
 p. 73. 158.

The Reason of
 inserting this
 Proceeding.

THIS worthy Performance was not only
 wrote, but introduc'd into the Fifth Volume
 of State Trials, by the Friends of these Crimi-
 nals, and was calculated chiefly to render the
 Reign of King *Charles I.* odious among the Bre-
 thren, for they have inserted neither the Informa-
 tion, or the Defendant's Answer, but a Collection
 of lamentable Complaints and Invectives against
 the Administration in that Reign, more particu-
 larly against the Bishops and Ecclesiastical Go-
 vernment establish'd in these Kingdoms, and such
 whining Cant Expressions, as might move the
 Compassion of the deluded Mob: Their Friends
 knew very well, that if they had printed the In-
 formation, or the Defendants Answers, which
 were so many Justifications of the abusive Lan-
 guage

guage they had bestow'd on the Government, it would have expos'd their Cause to every Man of common Sense at this Day, and justified the Severity of the Government towards them; for, instead of their being prosecuted for Libelling, it is generally held, they ought to have been indicted in the ordinary Courts of Law, for conspiring and inciting an Insurrection and Rebellion; and it was the Opinion of the then Lord Chief Justice *Richardson*, That if they had been charg'd with High Treason, almost any Jury would have found them guilty, and they had lost their Heads with their Ears; they would not have had another Opportunity of inciting a Rebellion against their Prince, as they did afterwards: *Prynn*, it seems, was so thoroughly convinc'd of the Mischief he had done, that no Man promoted the Restoration of the Royal Family with more Zeal than he did; and he was us'd to say, *It had been happy for the Nation, if they had taken his Head as well as his Ears.*

All that has the Appearance of a Trial in this Proceeding is an imperfect Speech of Archbishop *Laud*'s, on the passing Sentence, from whence we may collect something of the Nature of the Charge against the Defendants: However, such as it is, since they have inserted it in the *Folio* Edition, I shall endeavour to give the Reader the Tenor of it.

An Information being exhibited by the Attorney General in the Star-Chamber, against *John Bastwick*, Doctor of Physick, * *Henry Burton* Bachelor of Divinity, and *William Prynn* Barrister at Law, for Writing and Publishing several seditious and libellous Books and Pamphlets; they prepar'd such scandalous and libellous Answers to the Information, that no Counsel durst sign them; whereupon they petition'd the Court that they would accept of their Answers sign'd by themselves, without a Counsel's Hand, alledging, that Dr. *Layton*, and others, had been thus indulg'd in a Case of the like Nature: That in Treason, Felony, &c. the Defendants were al-

The Information.

* *Rushworth's Collections*, Vol. II. p. 380.

Page 66.

Their Answers scandalous.

low'd to make their Defence without Counsel; That Counsel were not allow'd of Necessity, but Favour, to help the Defendants; That every Answer, in the Eye of the Law, was the Defendant's, not the Counsel's; That an innocent Man ought not to suffer thro' the Neglect, Ignorance or Treachery of his Counsel; That the Defendant's Answers rested on Books, Matters of Divinity, and other Points in which Counsel had little Skill; That at the Day of Judgment every Man should answer for himself, and that among the *Jews* and *Pagan Romans*, every one might answer for himself, as in the Instances of *Naboth*, *Susanna*, *Christ* and *St. Paul*.

They hop'd therefore, that as they were accus'd in this Court by the *English* Prelates, and high Priests Instigations, of Sedition and such like Crimes, as *St. Paul* was, they should enjoy the same Privilege and Freedom before Christian Judges, as *St. Paul* did before Pagan Judges.

A Cross-Bill
preferr'd a-
gainst the Bi-
shops.

Whereupon the Court order'd, that if the Defendants did not put in their Answers under Counsels Hands by a certain Day, the Charge should be taken *pro Confesso*. In the mean Time the Defendants preferr'd a Cross-Bill, sign'd by themselves, against Archbishop *Laud*, and other Bishops, charging them with usurping Royal Power, with introducing Innovations in Religion, and licensing Popish and *Arminian* Books, being much of the same Strain with their Answers; and this Mr. *Prynne* tender'd to the Lord Keeper, praying it might be accepted without Counsels Hands, who durst not sign it: Whereupon 'tis said that the Archbishop propos'd, that the Defendants should be prosecuted for a fresh Libel; but the Opinion of the Court was against him: However, the Lord Keeper refused to accept their Bill, ordering it to be delivered to the Attorney General.

Questions re-
solv'd by the
Judges.

Page 67.

The Archbishop then propos'd that the Judges might deliver their Opinions to the following Questions: 1. Whether Process might not issue out of the Ecclesiastical Courts in the Bishops Names? Which was answer'd in the Affirmative.

2. Whe-

2. Whether a Patent under the Great Seal was necessary for keeping Ecclesiastical Courts, and for Citations, Excommunications, and other Censures: And whether Citations must be in the King's Name, and under his Seal and Arms? To which it was answer'd, they were not necessary. 3. Whether Bishops, Archdeacons, &c. might hold their Visitations, &c. without a Commission under the Great Seal? To which it was answer'd, They might: Which Opinion of the Judges being certified into the Star-Chamber by Eleven of the Twelve Judges, under their Hands, it was recorded there, and in the other Courts at *Westminster*; and the original Certificate deliver'd to the Archbishop, to be kept among the Records of his Court.

The Defendants having had several further Days allow'd them to put in their Answers under their Counsels Hands, and insisting still on having their former Answers accepted under their own Hands; the Court order'd the Information to be taken *pro Confesso*, and appoited *June 14*, for them to be brought to the Bar, and receive Sentence, and they were brought to the Bar accordingly.

The Editor of this Proceeding relates, That the Lord Chief Justice *Finch* and the rest of the Court, observing the Length of Mr. *Prynn*'s Ears, were angry that they had been cropp'd no shorter on his former Sentence for libelling; and that thereupon *Prynn* said, there was not one of their Honours but wou'd be sorry to have their Ears as his were: Whereupon the Lord Keeper observing he was saucy, *Prynn* reply'd, He hop'd they would not be offended, and pray'd God would give them Ears to hear, and mov'd the Court to accept their Cross-Bill against the Bishops; and being told that was not the Business of the Day, he mov'd that the Bishops on the Bench might withdraw, because they were their Adversaries: To which the Lord Keeper reply'd, It was a sweet Motion; and if they should proceed to libel all the Lords and Judges on the Bench, they would leave none to pass Sentence on them, be-

Page 68.

cause they would be Parties. Then *Prynn* mov'd, That his Answer might be accepted, which had been sign'd by one Counsel's Hand, *Holt*; but this having been referr'd to the Judges, was before rejected as scandalous; and *Prynn* was told further, That it was too late now to put in his Answer; and the Information was order'd to be read, which was very long, containing these five Books annex'd to it, (*viz.*) *Doctor Bastwick's Latin Apology, his Litany, Mr. Burton's Book, entitled, An Apology of an Appeal to the King's Most excellent Majesty, with two Sermons for God and the King, preach'd on the Fifth of November before: The News from Ipswich, and the Divine Tragedy, Recording God's fearful Judgment against Sabbath-breakers.*

• Littleton.

The King's Counsel, who were Five, took each of them a Book; but what they said on opening the Information, is almost entirely omitted, unless it be, that Mr. Serjeant *Whitfield* observ'd, That there was never a Page in Mr. *Burton's* Book, but deserv'd a heavier and deeper Censure than that Court could inflict; and that Mr. * Solicitor General, mentioning that Part of the Libel, call'd *God's Judgments on Sabbath-Breakers*, said, That they sat in the Seat of God, who judg'd these Accidents which fell out upon Persons suddenly struck, to be the Judgments of God for Sabbath-breaking; and enlarg'd particularly on that Reflection on the late Attorney General *Noy*, who was shamefully abus'd and slander'd, as if God's Judgments had fallen upon him for so zealously prosecuting Mr. *Prynn*, for his *Histrionastix*; and for his Laughing at *Prynn* when he was in the Pillory: The Libeller pretended, that from that Instant Mr. *Noy* was struck (according to the Language of those Days) or afflicted with an Issue of Blood in his Privy Parts, which could never be stopp'd till his Death, that happened soon after: Whereas Mr. Solicitor observ'd, the Truth was, he had that Issue long before, there being Three or Four Gentlemen of good Credit that would testify the same upon Oath,

Oath, and call'd out to make Room for these Gentlemen to come into Court, but (says the Relator of this Story) none appear'd.

After the King's Counsel had open'd and enforc'd the Charge, the Lord Keeper acquainted the Defendants, that they had Liberty to speak for themselves, and to shew Cause why the Information should not be taken *pro Confesso*, provided they kept within the Bounds of Decency, and their Speeches were not libellous. Page 69.

Mr. *Prynn* thereupon said, He expected some particular Charge would have been prov'd against him; That Dr. *Bastwick* and Mr. *Burton* were charg'd with particular Books annex'd to the Information, but none of the Books were laid to him: The sole Offence for which the Information was taken *pro Confesso*, was his not putting in his Answer under Counsel's Hand; whereas he had been confin'd a close Prisoner, and depriv'd of all Means of doing it; even Pen, Ink, and Paper were for a great While deny'd him; his Servant who should have solicited for him, was made Prisoner, and his Friends not permitted to come near him; and when he had obtain'd the Liberty of Pen and Ink, his Chamber was search'd, and Part of his Instructions taken from him; and that afterwards Mr. *Holt* refus'd to sign the Answer he had drawn up, and the Court refus'd to receive it as sign'd by his Counsel *Tomlin*. Mr. *Prynn*'s Speech when call'd to his Sentence.

To which the Lord Keeper told him, he had received a great Deal more Favour than many others he could instance, where the Charge had been taken *pro Confesso*, for not putting in an Answer in Six Days, and he had much longer Time given him; therefore the Court was free from all Calumny or Asperſion, for rejecting his Answer not sign'd by Counsels Hands. The Defendant appealing to his Counsel, Mr. *Holt*, if he had not used his Endeavours to get his Answer sign'd: Mr. *Holt* said, it was impossible to prepare his Answer in so short a Time as was allotted; for after he was assign'd his Counsel, and had long expected *Prynn* should come to him, he found him shut

up a close Prisoner, so that he could have no Access to him; and when he had obtain'd Leave to come to him, and procur'd him Pen, Ink, and Paper, the Defendant soon after sent him Forty Sheets of Instructions, and afterwards Forty more; but he found the Answer so long, and of such a Nature, that he durst not set his Hand to it, for Fear of offending their Honours.

Mr. *Prynn* acquainted the Court hereupon, that he had still his Answer ready, and tender'd it to the Court, and was again told his Answer came too late, and bid to be silent: Then the Lord Keeper demanded of Dr. *Bastwick*, What he had to say:

Dr *Bastwick's*
Speech, when
call'd to hear
his Sentence.

Doctor *Bastwick* hereupon made a long Speech, comparing the Temporal Judges of the Court to so many Gods, and desired them to do as God did in the Case of *Sodom*, condescend to read their Answers, and enquire, Whether the Crime was altogether according to the Cry that was come up to them, but not consult the Prelates about it, who were their Adversaries, and proudly set themselves against the Ways of God, from whom none could expect Justice or Judgment; begg'd of their Lordships not to censure them before they knew their Cause, and had heard his Answer read; and threatned, If they did not comply with his Request, he would clothe it in *Roman* Buff, and send it through the World, if it cost him his Life.

To which the Lord Keeper answer'd, He had tender'd an Answer as libellous as his Books. Dr. *Bastwick* reply'd, his Answer was not libellous, tho' long: And he knew Sentence was long since pass'd on them to cut off their Ears; which he was able to prove by some of the Bishops Servants: And was this righteous Judgment, as the Apostle once said: What, whip a *Roman*? He had been a Soldier, able to lead an Army in the Field for the Honour of their Prince, and was now a Physician, and able to cure Kings and Princes, and would they curtalize a *Roman's* Ears like a Cur? in a Cause where they were engaged for the Glory of God, the Honour of the King, &c.

The

The Lord Keeper ask'd him, If they prophesy'd of themselves? And having commanded him to be silent, demanded of Mr. *Burton*, What he had to say?

Mr. *Burton* answer'd, He found they were determin'd to take the Charge *pro Confesso*, tho' he had put in his Answer sign'd by Counsel; That he confess'd he did write the Book he was charg'd with, but without any Intent of raising a Commotion or Sedition; he had deliver'd nothing but what his Text led him to, being chosen to suit the Day, namely the Fifth of *November*.

Mr. *Burton's*
Speech.

Page 71.

The Court told him, That his Answer had been referr'd to the Judges; and it was declar'd impertinent; but it was indeed as libellous as his Book, and that his Answer alone deserv'd a Censure; and ask'd him, If it became a Minister to deliver himself in such a railing scandalous Way?

Mr. *Burton* answer'd, That a Minister was not always to go in a mild Strain; That he look'd upon it to be his Duty, to inform his People of the Innovations that were crept into the Church, and shew them the Danger of them.

Then the Lords proceeded to their Sentence; and the Lord *Cottington* condemned all the Three to lose their Ears in the Palace-Yard, *Westminster*, to pay a Fine of 5000 *l.* each, and to be imprisoned in Three remote Parts of the Kingdom, viz. the Castles of *Carnarvan*, *Cornwal* and *Lancaster*: And the Lord *Finch* further sentenc'd *Prynn* to be stigmatiz'd in the Cheeks with Two Letters (*S* and *L*) for a Seditious Libeller, to which the Rest of the Lords agreed, except Archbishop *Laud*, who would pass no Censure on them, because he might be thought prejudic'd; but made a Speech, wherein he refuted many of the Calumnies cast upon him and the Rest of the Bishops, by the Defendants.

The Sentence.

He observ'd, That his Cure of the Church, the Reducing it into Order, and the Upholding the external Worship of God in it, and the Settling it on the Rules of its first Reformation, were the sole Causes (whatever was pretended), of all this malicious

Bishop *Laud's*
Speech upon
the Occasion.

Page 72.

malicious Storm against him and some of his Brethren, who were charg'd with Innovations by them, who were the greatest Innovators themselves; That the Intention of these Men was to raise Sedition, being as great Incendiaries in the State, as in the Church.

That their main Crime was, their being Bishops, and maintaining that their Calling was *Jure Divino*, by Divine Right, as he could maintain it was, tho' not all Adjuncts to their Calling, and that from the Apostles Times in all Ages, and in all Places, the Church of Christ was govern'd by Bishops: And Lay Elders were never heard of till *Calvin's* new-fangled Device at *Geneva*.

That the Asserting this Divine Right these Men would charge as an Encroachment on the King's Rights, which was a Mistake: For tho' their Office was from God and Christ immediately; yet they might not exercise that Power, either of Order or Jurisdiction, but as God had appointed them, that is not in any Christian King's Dominions, but by and under the Power of the King.

And were this a good Argument against Bishops, it would hold against Priests and Ministers, who assert their Calling to be of Divine Right too; but surely they would not say, that to be a Priest or Minister was to encroach on the King's Prerogatives.

But if their Calling, as Bishops, could not be made out to be of Divine Right, yet *Jure Ecclesiastico*, by Ecclesiastical Right, it could not be deny'd; for the Bishops here in *England* were confirm'd both in their Power and Means by Act of Parliament, so that they were in as good a Condition as the Laws of the Realm could make them: And for this Reason alone, no Man could Libel their Calling, as these Men did in the Pulpit, by the Press, and otherwise; but he libelled against the King and State, by whose Laws they were establish'd, and could have no other View than to raise a Sedition among the People.

The

The main Scope of these Libels was to kindle a Jealousy in Mens Minds, that there were great Plots on Foot, dangerous Plots (says Mr. *Burton* expressly) to change the Orthodox Religion establish'd in *England*, and bring in *Romish* Superstition: And by these Suggestions, the King, as well as Prelates, was dangerously wounded. Nor had any Means been so successful to induce the People to believe a Change of Religion was designed, as their Cry of *Innovations*: He should take the Liberty therefore of shewing the Vanity and Falshood of that Charge, in many Instances.

Page 73.

One Innovation they charged him with was the ordering the last Year's Fast to be kept without Sermons, in *London* and the infected Places; whereas Sermons were the only Means to humble Men.

To which he answered, That there was a visible Inconvenience in Mens flocking to Sermons in infected Places; and besides that, this was not an Act of the Prelates, but of the Council Table, and that the Sermons of some admir'd Preachers seemed calculated rather to stir up Sedition than to humble Men.

A second Innovation was the Appointing the Fast on *Wednesday*, which was done with an Intent to suppress the *Wednesdays* Lectures in *London*.

Page 74.

To which he answered, That this was no Innovation, because the last Fast was on *Wednesday*, and he remember'd a Fast on a *Wednesday*, forty Years before; and if it was an Innovation, it was of the Lord Keeper's naming, and not the Prelates, and they had lived to see that the *Wednesday* Lecture was not suppressed.

A third was, the leaving the Prayer for seasonable Weather out of the Fast-book, which was a Cause of Shipwrecks.

To which he answered, That the Weather was seasonable when the Fast was appointed, and it was not the Custom of the Church to pray for fair Weather, when they had it. And he desired their Lordships to observe the Consequence of this dangerous Innovation; the Prayer for fair Weather

ther was left out of the Fast-book ; therefore the Prelates intend to bring in Popery.

A Fourth was, That one useful Collect was left out, and a Clause omitted in another.

His Answer was, That the Collect omitted had a Relation to preaching ; and Sermons being omitted on Account of the Infection, it was thought fit to leave it out : And as to the Part of a Collect that blesses God for delivering us from *Romish* Superstition, that was proper in the Time of their Fathers, but not in theirs, who were never in *Romish* Superstition.

5. That in the Order for the Fast, there was a Passage left out, concerning the Abuse of Fasting in Relation to Merit.

Ans^w. Because in this Kingdom few People have any Opinion of the Merit of Fasting, but the Contempt of all Fasts (except such as humerous Men appointed themselves) especially that of *Lent*, was very great, and extremely vilified.

6. That the Lady *Elizabeth* and her Children were dash'd out of the new Collect.

Ans^w. That it was left out of the late Editions of the Common Prayer Book, and this was done of Course, none of the Royal Family being pray'd for usually, but those in the Right Line ; and besides, it was done by the King's Directions.

7. That the Words (who art the Father of thine Elect, and of their Seed) are changed in the Preface of the Collect, for the Prince and the King's Children.

Ans^w. This Alteration was made in the Time of his Predecessor, and done by his Majesty's special Directions, because he had then no Children to pray for.

8. That in the Epistle, the *Sunday* before *Easter*, instead of *in* they have made it *at* the Name of *Jesus* every Knee shall bow.

Ans^w. That it was *at* in the late learned Translation made in King *James's* Time, and it was not very material, (because there was no Alteration in the Sense). But he protested he did not know how this Alteration came ; it might be an Error

Error of the Press, or if it was altered with Design, it was probably done to gratify the preciser Sort; for they followed therein the *Geneva* Translation, printed there *Anno* 1557. and that being Fourscore Years since, was no Innovation made by them.

9. That two Places were changed in the Prayers appointed for the fifth of *November*, and ordered to be read by Act of Parliament. 1. The Words: *Root out that Babylonish and Antichristian Sect, which say of Jerusalem, &c.* for *Root out that Babylonish and Antichristian Sect (of them) which say, &c.* 2. *Cut off those Workers of Iniquity, whose Religion is Rebellion;* for *cut off those Workers of Iniquity who turn Religion into Rebellion, &c.*

Ans. These Prayers were not ordered to be read by Act of Parliament: The Act indeed requires Prayers and Thanksgivings every fifth of *November*, but does not prescribe the Form of Prayer, that's left to the Church: Besides his Majesty of his own Motion commanded him to make the Alteration on very good Reason; Because, 1. If their Religion be Rebellion, then may it be said by the Enemies of Christianity, That the Christian Religion is Rebellion, unless we deny their being Christians; but that some of their Opinions taught Rebellion, was apparently true.

Another Reason was, that they made their Religion to be Rebellion, then they made their Religion and Rebellion to be one. Whereas the State professes never to put any one to Death for Religion, but for Rebellion and Treason only.

As to the other Alteration, the inserting the Words (*of them*) he did not think it material.

10. That the Prayer for the Navy was left out Page 76. of the Fast-book.

Ans. There was a great deal of Reason it should, because his Majesty was not then in a State of War, or had any Enemy Abroad.

11. That they read the second Service at the Communion Table.

Ans.

Ans. That this was so in many Places, as long as he could remember, and by little and little alter'd of late, when the Faction prevail'd, though the endeavouring to revive this antient Custom of the Church, was called an Innovation. Besides, the Rubrick commanded it to be read there, and not the Prelates.

12. That the Bowing or doing Reverence at their first coming into a Church, or at their nearer Approach to the Holy Table or Altar, was another Innovation, suggesting that this was a worshipping the Holy Table, or something else.

Ans. That if the worshipping God when they entered his House, or approach'd his Altar, was an Innovation, it was a very old one. *Moses* did Reverence at the Door of the Tabernacle; *Hezekiah* and the People, when they had made an end of Offering, bow'd and worshipp'd; and *David* says, *Let us worship and fall down and kneel*, &c. And after the *Judaical* Worship ended, *Venite, Adoremus*, as far upwards as there is any Track of a Liturgy, was the *Introitus* of the Priest, all the *Latin* Church over. And in the daily Prayers of the Church of *England*, this was retained at the Reformation; even according to the Service-Book of the Church of *England*. The Priest and the People both are called upon for external and bodily Reverence, and Worship of God in his Church. Therefore those who do this, do not Innovate, and yet the Government is so mild, that no Man is constrain'd, or question'd for not doing it. For his own Part, he thought himself bound to worship with Body as well as Soul, whenever he came where God was to be worshipped. The Misery of it was, it was Superstition in those Times, to come with more Reverence into a Church, than a Tinker into an Ale-house; the Comparison was too homely, but his just Indignation at the Profaneness of the Times, made him speak it.

The Honourable Lords of the Garter, at great Solemnities, he observed, did then Reverence to *Almighty God*, he doubted not but it was towards his

his Altar, the greatest Place of God's Residence upon Earth, for there it was *Hoc est Corpus meum*; this is my Body; but in the Pulpit it was at most but *hoc est Verbum meum*; this is my Word; and as too many managed the Matter, it was the Word of the Devil, rather than the Word of God, witness the seditious Discourses that issued from thence.

And had it been Idolatry to worship God towards his Holy Table, he presum'd Queen *Elizabeth* and King *James* would not have practis'd it, even at Installations; and if this was the Worship of God, a poor Priest ought to do it, as well as a Knight; and if it was Idolatry, the Knights ought not to do it any more than he.

That the celebrated Bishop *Jewel* approved of this Bowing as well as kneeling at the Sacrament, and standing up at the Gospel, that ancient Rite, which some now fondly made another Innovation; affirming that they were all commendable Gestures, and Tokens of Devotion, so long as the People understood what they meant, and apply'd them to God, and with us they applied them to none but God, till these factious Spirits, to the great Disservice of God and his Church, went about to perswade them that they were Superstitious, if not Idolatrous Gestures, as they made every thing else to be, where God was not slovenly served.

13. The Holy Table was plac'd Altar-wise, at the upper End of the Chancel, that is, *North* and *South*, and Rail'd in.

Answe. It was no Popery to set a Rail to keep that Holy Table from Profanation: Nor was it any Innovation to place it at the upper End of the Chancel, where the Alter stood, which appear'd both from the Practise and the Canon. As to the Practise: In the King's Chapel, and in several Cathedrals, it had stood so ever since the Reformation; and though it stood otherwise in most Parish-Churches, it was but reasonable they should conform to the Mother Church: And how could any Man say, that the placing the Table otherwise was

ther was left out of the Fast-book ; therefore the Prelates intend to bring in Popery.

A Fourth was, That one useful Collect was left out, and a Clause omitted in another.

His Answer was, That the Collect omitted had a Relation to preaching ; and Sermons being omitted on Account of the Infection, it was thought fit to leave it out : And as to the Part of a Collect that blesses God for delivering us from *Romish* Superstition, that was proper in the Time of their Fathers, but not in theirs, who were never in *Romish* Superstition.

5. That in the Order for the Fast, there was a Passage left out, concerning the Abuse of Fasting in Relation to Merit.

Ans^w. Because in this Kingdom few People have any Opinion of the Merit of Fasting, but the Contempt of all Fasts (except such as humerous Men appointed themselves) especially that of *Lent*, was very great, and extremely vilified.

6. That the Lady *Elizabeth* and her Children were dash'd out of the new Collect.

Ans^w. That it was left out of the late Editions of the Common Prayer Book, and this was done of Course, none of the Royal Family being pray'd for usually, but those in the Right Line ; and besides, it was done by the King's Directions.

7. That the Words (who art the Father of thine Elect, and of their Seed) are changed in the Preface of the Collect, for the Prince and the King's Children.

Ans^w. This Alteration was made in the Time of his Predecessor, and done by his Majesty's special Directions, because he had then no Children to pray for.

8. That in the Epistle, the *Sunday* before *Easter*, instead of *in* they have made it *at* the Name of *Jesus* every Knee shall bow.

Ans^w. That it was *at* in the late learned Translation made in King *James's* Time, and it was not very material, (because there was no Alteration in the Sense). But he protested he did not know how this Alteration came ; it might be an Error

Error of the Press, or if it was altered with Design, it was probably done to gratify the preciser Sort; for they followed therein the *Geneva* Translation, printed there *Anno* 1557. and that being Fourscore Years since, was no Innovation made by them.

9. That two Places were changed in the Prayers appointed for the fifth of *November*, and ordered to be read by Act of Parliament. 1. The Words: *Root out that Babylonish and Antichristian Sect, which say of Jerusalem, &c.* for *Root out that Babylonish and Antichristian Sect (of them) which say, &c.* 2. *Cut off those Workers of Iniquity, whose Religion is Rebellion;* for *cut off those Workers of Iniquity who turn Religion into Rebellion, &c.*

Ans. These Prayers were not ordered to be read by Act of Parliament: The Act indeed requires Prayers and Thanksgivings every fifth of *November*, but does not prescribe the Form of Prayer, that's left to the Church: Besides his Majesty of his own Motion commanded him to make the Alteration on very good Reason; Because, 1. If their Religion be Rebellion, then may it be said by the Enemies of Christianity, That the Christian Religion is Rebellion, unless we deny their being Christians; but that some of their Opinions taught Rebellion, was apparently true.

Another Reason was, that they made their Religion to be Rebellion, then they made their Religion and Rebellion to be one. Whereas the State professes never to put any one to Death for Religion, but for Rebellion and Treason only.

As to the other Alteration, the inserting the Words (*of them*) he did not think it material.

10. That the Prayer for the Navy was left out Page 76, of the Fast-book.

Ans. There was a great deal of Reason it should, because his Majesty was not then in a State of War, or had any Enemy Abroad.

11. That they read the second Service at the Communion Table.

Ans.

Ans^w. That this was so in many Places, as long as he could remember, and by little and little alter'd of late, when the Faction prevail'd, though the endeavouring to revive this antient Custom of the Church, was called an Innovation. Besides, the Rubrick commanded it to be read there, and not the Prelates.

12. That the Bowing or doing Reverence at their first coming into a Church, or at their nearer Approach to the Holy Table or Altar, was another Innovation, suggesting that this was a worshipping the Holy Table, or something else.

Ans^w. That if the worshipping God when they entered his House, or approach'd his Altar, was an Innovation, it was a very old one. *Moses* did Reverence at the Door of the Tabernacle; *Hezekiah* and the People, when they had made an end of Offering, bow'd and worshipp'd; and *David* says, *Let us worship and fall down and kneel*, &c. And after the *Judaical* Worship ended, *Venite, Adoremus*, as far upwards as there is any Track of a Liturgy, was the *Introitus* of the Priest, all the *Latin* Church over. And in the daily Prayers of the Church of *England*, this was retained at the Reformation; even according to the Service-Book of the Church of *England*. The Priest and the People both are called upon for external and bodily Reverence, and Worship of God in his Church. Therefore those who do this, do not Innovate, and yet the Government is so mild, that no Man is constrain'd, or question'd for not doing it. For his own Part, he thought himself bound to worship with Body as well as Soul, whenever he came where God was to be worshipped. The Misery of it was, it was Superstition in those Times, to come with more Reverence into a Church, than a Tinker into an Ale-house; the Comparison was too homely, but his just Indignation at the Profaneness of the Times, made him speak it.

The Honourable Lords of the Garter, at great Solemnities, he observed, did then Reverence to *Almighty God*, he doubted not but it was towards
his

his Altar, the greatest Place of God's Residence upon Earth, for there it was *Hoc est Corpus meum*; this is my Body; but in the Pulpit it was at most but *hoc est Verbum meum*; this is my Word; and as too many managed the Matter, it was the Word of the Devil, rather than the Word of God, witness the seditious Discourses that issued from thence.

And had it been Idolatry to worship God towards his Holy Table, he presum'd Queen *Elizabeth* and King *James* would not have practis'd it, even at Installations; and if this was the Worship of God, a poor Priest ought to do it, as well as a Knight; and if it was Idolatry, the Knights ought not to do it any more than he.

That the celebrated Bishop *Jewel* approved of this Bowing as well as kneeling at the Sacrament, and standing up at the Gospel, that ancient Rite, which some now fondly made another Innovation; affirming that they were all commendable Gestures, and Tokens of Devotion, so long as the People understood what they meant, and apply'd them to God, and with us they applied them to none but God, till these factious Spirits, to the great Disservice of God and his Church, went about to perswade them that they were Superstitious, if not Idolatrous Gestures, as they made every thing else to be, where God was not slovenly served.

13. The Holy Table was plac'd Altar-wise, at the upper End of the Chancel, that is, *North* and *South*, and Rail'd in.

Answe. It was no Popery to set a Rail to keep that Holy Table from Profanation: Nor was it any Innovation to place it at the upper End of the Chancel, where the Alter stood, which appear'd both from the Practise and the Canon. As to the Practise: In the King's Chapel, and in several Cathedrals, it had stood so ever since the Reformation; and though it stood otherwise in most Parish-Churches, it was but reasonable they should conform to the Mother Church: And how could any Man say, that the placing the Table otherwise was

was to advance or usher in Popery, when Queen *Elizabeth*, who banish'd Popery, had it standing so in her Chapel all her Reign, as well as her Successors.

And as to the Canon; this requires, that the Holy Table in every Church stand where the Altar stood, which was at the upper End of the Church *North* and *South*; and to set the Table otherwise, would be to set it *cross* the Place where the Altar stood, not *in* it.

Page 79.

14. That the Prelates, to justify their Proceedings, had forged a new Article of Religion brought from *Rome*, which gave them Power to alter the Doctrine and Discipline of the Church at a Blow, and foisted it into the 20th Article of the Church, in the last Edition of the Articles, *Anno* 1628, in Affront of his Majesty's Declaration, &c. The Clause aim'd at is this: *The Church hath Power to decree Rites and Ceremonies, and Authority in Matters of Faith*, (though the Word is *Controversies* of Faith) and that this is not to be found in the *Latin* or *English* Articles of *Edw. VI.* or Queen *Elizabeth*, ratified by Parliament.

Ans. This Clause was not added or forged by the Prelates, *to serve their Turns*, as is suggested, but was in Truth rased out by some of the Faction, to weaken the just Power of the Church, *to serve their Turns*; for his Lordship had a Copy of the Articles in *English*, of the Year 1512, and of the Year 1605, and of the Year 1593, and in *Latin*, of the Year 1563, which was one of the first printed Copies, in which that Clause, for *the Power of the Church to decree Ceremonies, and to have Authorities in Controversies of Faith*, is inserted; and desires the Faction might clear themselves of that foul Rasure, in leaving out this Part of the Article: That it was in the Articles printed in 1571, where this Clause for the Authority of the Church was left out; and if their Lordships would look back and consider who were at the Helm at that Time, and rode the Church almost at their Pleasure, and how powerful the Ancestors of these Libellers then were, they would think it no hard Matter

Page 80.

Matter

Matter to get these Articles printed with that Clause left out.

That as to Mr. *Burton's* Charge, That the Censures formerly laid on Malefactors, were now executed on God's Ministers for their Virtue and Piety; the Truth was, the Virtue and Piety these Men were punished for by the High Commission or elsewhere, was, the Preaching of Schism and Sedition, many of their Sermons being as bad as their Libels; and *Burton's* Libel was a Sermon first, but whether that Stuff had any Affinity with Virtue and Piety, he submitted to any Christian Reader: Concluding, That he gave their Lordships Thanks for their Patience in hearing him, and their just and honourable Censure on these Men, their unanimous Dislike of them and Defence of the Church: But because there had been some Reflection on himself, he should forbear to censure them, and leave them to God's Mercy and the King's Justice.

On the 30th of *June* following, the Sentence was executed on these three Criminals: *Bastwick* was brought to the Pillory, and made a Speech to the People, wherein he tells them, That the Bishops were the Occasion of his Sufferings, and exhorted them not to be afraid of those Prelates, but to go on, and fight valiantly against *Gog* and *Magog*: Declaring, that he was so far from being afraid of what they could do, that had he as much Blood as would swell the *Thames*, he would shed it every drop in this Cause; had he as many Lives as Hairs on his Head, or Drops of Blood in his Veins, he would give them all for this Cause. That this Plot, of sending them to remote Places, was first agitated by the *Jesuits*, and what Times were they fallen into, that the Lords must fit and act the *Jesuits* Plots.

Page 81.

Prynn was suffered also to rail a great while at the Illegality and Injustice of the Proceedings against them. Adding, that he challenged all the Prelates in *Christendom*, to prove that their Calling was *Jure Divino*; and that if he did not confute them, he would be hang'd up at the Hall; where-

Page 82.

upon 'tis said, the People gave a great Shout: Then he said, he would maintain, That the Prelates sending out Writs and Proceſs in their own Names, was againſt all Law and Juſtice, and intrench'd on the King's Prerogative, and the Subjects Liberty; and challenged all the Lawyers in *England* to Diſpute with them on that Head, and this he repeated with a loud Voice three times: Adding, That it was for the general Good and the Liberties of the People, that they had thus forfeited their own Liberties; they might ſee in this Inſtance, there were no Degrees of Men exempted from Sufferings: Here was a Divine, a Phyſician, and a Lawyer, and for ought he knew, the next might be a Biſhop; they ſpared no Society or Calling, none were exempted that oppoſed them: They had beſt look to themſelves, the Martyrs who ſuffered in Queen *Mary's* Days, were called Factionous Fellows, in a Book lately publiſhed by Authority; and ſuch Factionous Fellows were they for diſcovering a Plot of Popery. *Here the Editor ſays, The Archbiſhop of Canterbury being informed by his Spies, of what Prynne ſaid, propoſed the Gagging of him in the Star-Chamber, and the paſſing ſome farther Sentence on him, but produces no Authority for it. However, Prynne, it ſeems, was ſuffered to go on and rail againſt the Government, inciting the People to ſhed their deareſt Blood in the Cauſe.*

Page 83.

Burton's Speech tended chiefly to reſemble his Sufferings to thoſe of our Bleſſed Saviour: Upon viewing the three Pillories, he ſaid, I ſee *Mount Calvary*, where the three Croſſes, one for Chriſt, and the other two for the two Thieves were pitch'd; and if Chriſt were numbred among Thieves, ſhall a Chriſtian for Chriſt's Cauſe think much to be numbred among Rogues? Surely, if I am a Rogue, I am Chriſt's Rogue, and no Man's; with a Multitude of other canting Expreſſions, his Speech being of the Length of an ordinary Sermon, and may poſſibly give great Conſolation to the Saints, but is hardly fit to be repeated to Men of Senſe. Soon after this Part of the Sentence was executed upon

upon them, they were sent Prisoners to the respective Castles of *Carnarvan*, *Launceston* and *Cornwal*, but removed from thence on the 27th of *August* following, (*viz.*) *Bastwick* to the Isles of *Silly*, *Burton* to the Isle of *Guernsey*, and *Prynn* to *Fersey*. When the Differences grew high between the King and Parliament in the Year 1640, *Prynn* found Means to Petition the Commons, setting forth, that through the malicious Practices of some Prelates and Churchmen, especially Archbishop *Laud*, and Dr. *Heylin*, whose Errors and Innovations in the Church, he opposed, he had within eight Years past undergone two heavy Sentences in the Star-Chamber (here he sets down the whole Proceedings against him) he might have Leave to examine his Witnesses, have Copies of all Orders and Decrees against him, and be released upon Bail; and that he might have Leave to plead and prosecute his own Cause, his Counsel having often failed him: And that they would give him such Satisfaction and Relief as the Justice and Equity of his Cause should admit. Petitions of the same Import were also delivered to the House, from *Burton* and *Bastwick*: Whereupon they were brought from the several Islands they were confined to, in great Triumph to *London*.

Of these Men, the Lord *Clarendon* gives the following Description: ‘ They were three Persons
‘ most notorious for their declared Malice against
‘ the Government of the Church by Bishops, in
‘ their several Books and Writings, which they
‘ had published to corrupt the People, with Cir-
‘ cumstances very scandalous, and in Language
‘ very scurrilous and impudent; which all Men
‘ thought deserved very exemplary Punishment.
‘ They were of the three several Professions which
‘ had the most Influence upon the People, a Di-
‘ vine, a common Lawyer, and a Doctor of Phy-
‘ sick; none of them of Interest, or any Esteem
‘ with the worthy Part of their several Professions,
‘ having been formerly all look’d upon under Cha-
‘ racters of Reproach: Yet when they were all
I 2 ‘ Sentenced,

‘ Sentenced, and for the Execution of that Sentence
 ‘ brought out to be punished as common and fig-
 ‘ nal Rogues, expos’d upon Scaffolds, to have
 ‘ their Ears cut off, and their Faces and Fore-
 ‘ heads branded with hot Irons (as the poorest
 ‘ and most mechanick Malefactors used to be,
 ‘ when they were not able to redeem themselves
 ‘ by Fine for their Trespases, or to satisfy any
 ‘ Damages for the Scandals they had raised a-
 ‘ gainst the good Name and Reputation of others)
 ‘ Men began no more to consider their Manners,
 ‘ but the Men; and each Profession with Anger
 ‘ and Indignation enough, thought their Educa-
 ‘ tion, and Degrees and Quality, would have se-
 ‘ cured them from such infamous Judgments.

Page 90.

Proceedings in the Case of Ship-Money,
between the KING and JOHN HAMP-
*DEN, * Esq; 13 Car. I. 1637.*

* Clarendon’s
 Hist. Vol. I.
 p. 185.

N. B. These Proceedings being already Printed
 in the Sixth Volume of the *Octavo* Edition, the
 inserting them again, would not only be an In-
 fringement of other People’s Properties, but an
 Imposition on the Publick, so are omitted; they
 begin in the fifth Volume of the *Folio* Edition at
 Page 90, and end at Page 305.

Page 306.

The TRIAL of THOMAS HARRISON,
Clerk, at the King’s Bench, for a Mis-
demeanour, in speaking reflecting Words
of Judge Hutton, 1638. Trin. 14 Car. I.

The Indict-
 ment.

THE Indictment sets forth, That the Court
 of Common Pleas is an antient Court of the
 King’s for the Administration of Justice, and that
 it was an Offence against his Majesty, his Crown
 and Dignity, and the Laws of the Kingdom, to
 disturb the said Court, or the Ministers thereof,
 when

when they were sitting; That Sir *Richard Hutton*, Knight, then was, and for many Years past had been one of the Judges of the said Court; and that the Defendant *Thomas Harrison*, of *Creeke*, in the County of *Northampton*, Clerk, maliciously intending to defame and scandalize the said Judge, to bring him under his Majesty's Displeasure, deprive him of his Life, Goods and Lands, and to make the said Judge to be held and esteemed a Traitor, did, while the said Court was sitting (as also the Courts of King's Bench and Chancery) in *Westminster Hall*, on the Fourth of *May* last, violently, and with Force and Arms, &c. come to the Bar of the said Court of Common Pleas, the said Sir *Richard Hutton*, and the other Justices of the said Court then and there judicially sitting, and in the Presence and Hearing of the aforesaid Justices, divers Serjeants at Law, many venerable Men, and others the King's faithful Subjects, with a loud Voice, speak these scandalous and defamatory *English* Words, (*viz.*) *I do accuse Mr. Justice Hutton of High Treason*; in contempt of his Majesty, his Crown and Dignity, and of all the Courts of Justice aforesaid; to the evil Example of others, to the Scandal, Disgrace and Destruction of the said Sir *Richard Hutton*, Knight, and against the King's Peace, &c.

To which the said *Thomas Harrison* pleaded Page 307.
Not Guilty. On which Mr. Serjeant *Heath* said, That the Indictment was for a notable and insolent Contempt (in this *Hall*) against Justice *Hutton*, and the Laws of this Kingdom; that the Court of Common Pleas is an antient Court, and that it is against the Crown and Dignity of the King, and the Courts of Justice, that when the said Courts were sitting, they, or any of the Ministers of the said Court shall be disturbed; that Mr. Justice *Hutton* is, and for many Years last past hath been, one of the Judges of the Court of Common Pleas; and that the Defendant, who is now at the Bar (Mr. *Harrison*, a Clerk) being moved with Malice against Mr. Justice *Hutton*, and intending to bring him into the King's high

Displeasure, and to hazard the losing of his Life, his Estate, and the Forfeiture of his Goods, and to disturb the Peace of the King, and the Court of Justice sitting, did falsely and maliciously the 4th of *May* last, the Court being sitting; this Court and the Court of Chancery, and the Court of Common Pleas, this Defendant audaciously, and maliciously, did rush to the Bar of the said Court of Common Pleas, Mr. Justice *Hutton*, and Mr. Justice *Crawley*, then and there sitting, there with a loud Voice spake to Mr. Justice *Hutton*, sitting as a Judge: *I do accuse Mr. Justice Hutton of High Treason.* This Offence being committed in this Manner, and in this Place, and with such a Boldness, is laid to be of a high Nature, and to the Contempt of the Crown, and Dignity of all the Courts of Justice, where the King is wholly Interested. Whether this Offence may be punished, that is the Force and Intent of this Indictment. My Lords, to this the Defendant hath pleaded Not Guilty: We that be of the King's Council shall make it appear, that this Defendant did do this, and in this Manner, as it is set forth.

Sir *John Banks.*

The Defendant's Examination read against him.

Mr. Attorney desired that the Examination of the Defendant *Harrison*, taken before the Lord Chief Justice *Brampton*, might be read; and the Defendant having acknowledged the Hand to be his that was subscribed to it, it was read accordingly; wherein the Defendant acknowledged it to be true, That whereas Mr. Justice *Hutton*, and Mr. Justice *Crawley*, were sitting in the Court of Common Pleas, he came to the Bar, and there did publickly charge Mr. Justice *Hutton* with High Treason; first, in denying the King's Supremacy, and next, in moving the People to Sedition. And being asked why he charged him with the first, and how he denied the King's Supremacy; he answered, That by common Fame, on *Saturday* last in the Exchequer-Chamber, he delivered his Opinion, That the King had no lawful Power to levy Ship-Money. And being asked if he heard the Argument, he answered, he heard it not, but received

ceived it from the common Report of others. Being farther asked, Why he charged him with stirring up the People to Sedition? He answered, Because by the Report of divers near the Place where the Examinant dwelt, the People became more and more stubborn in refusing to pay Ship-Money, which was contrary to all the orthodox Divines in the Kingdom; and in that, Mr. Justice *Hutton* riding that Circuit, had given the People such Encouragement to their Disobedience. Being further asked, Whether any other Person knew of this his Intent? He answered, There were two Persons with him, but they knew nothing of his Intentions till they heard it spoken at the Bar. Being asked, Why he made choice of this publick Way? He said, Because the Judge delivered his Opinion publickly; therefore he thought that to be the best Way; and if it had been done in a private Way, he thought it fit to acquaint him with it in a private Way.

Thomas Harrison.

The Examination being read, Mr. Attorney observed, That the Defendant had forged a Charge of High Treason against Mr. Justice *Hutton*, out of his own Brain, and for which he had no other Foundation than common Fame, by his own Confession; That it was a heavy Charge, subjecting the Person accused to the Forfeiture of his Lands, Goods, and Life; and by the old Law, the false Accuser was to undergo the same Punishment as the Person accused would have done, if he had been found guilty.

That the Office of a Judge was an Office of great Honour and Trust: By the old Statutes they were reckoned among the *Magnates Regni* 2 R. II. &c. and these Authors of base Scandals were reckoned Sowers of Discord and Subvertors of the Peace of the Common-wealth, and their Offences had been punished with more than ordinary Punishment. By the 25th of *Edw. III.* it was declared Treason to kill a Judge in the Execution of his Office. By the Law Books, if one draw a
I 4
Weapon

Displeasure, and to hazard the losing of his Life, his Estate, and the Forfeiture of his Goods, and to disturb the Peace of the King, and the Court of Justice sitting, did falsely and maliciously the 4th of *May* last, the Court being sitting; this Court and the Court of Chancery, and the Court of Common Pleas, this Defendant audaciously, and maliciously, did rush to the Bar of the said Court of Common Pleas, Mr. Justice *Hutton*, and Mr. Justice *Crawley*, then and there sitting, there with a loud Voice spake to Mr. Justice *Hutton*, sitting as a Judge: *I do accuse Mr. Justice Hutton of High Treason.* This Offence being committed in this Manner, and in this Place, and with such a Boldness, is laid to be of a high Nature, and to the Contempt of the Crown, and Dignity of all the Courts of Justice, where the King is wholly Interested. Whether this Offence may be punished, that is the Force and Intent of this Indictment. My Lords, to this the Defendant hath pleaded Not Guilty: We that be of the King's Council shall make it appear, that this Defendant did do this, and in this Manner, as it is set forth.

Sir *John Banks*.

The Defendant's Examination read against him.

Mr. Attorney desired that the Examination of the Defendant *Harrison*, taken before the Lord Chief Justice *Brampton*, might be read; and the Defendant having acknowledged the Hand to be his that was subscribed to it, it was read accordingly; wherein the Defendant acknowledged it to be true, That whereas Mr. Justice *Hutton*, and Mr. Justice *Crawley*, were sitting in the Court of Common Pleas, he came to the Bar, and there did publicly charge Mr. Justice *Hutton* with High Treason; first, in denying the King's Supremacy, and next, in moving the People to Sedition. And being asked why he charged him with the first, and how he denied the King's Supremacy; he answered, That by common Fame, on *Saturday* last in the Exchequer-Chamber, he delivered his Opinion, That the King had no lawful Power to levy Ship-Money. And being asked if he heard the Argument, he answered, he heard it not, but received

ceived it from the common Report of others. Being farther asked, Why he charged him with stirring up the People to Sedition? He answered, Because by the Report of divers near the Place where the Examinant dwelt, the People became more and more stubborn in refusing to pay Ship-Money, which was contrary to all the orthodox Divines in the Kingdom; and in that, Mr. Justice *Hutton* riding that Circuit, had given the People such Encouragement to their Disobedience. Being further asked, Whether any other Person knew of this his Intent? He answered, There were two Persons with him, but they knew nothing of his Intentions till they heard it spoken at the Bar. Being asked, Why he made choice of this publick Way? He said, Because the Judge delivered his Opinion publickly; therefore he thought that to be the best Way; and if it had been done in a private Way, he thought it fit to acquaint him with it in a private Way.

Thomas Harrison.

The Examination being read, Mr. Attorney observed, That the Defendant had forged a Charge of High Treason against Mr. Justice *Hutton*, out of his own Brain, and for which he had no other Foundation than common Fame, by his own Confession; That it was a heavy Charge, subjecting the Person accused to the Forfeiture of his Lands, Goods, and Life; and by the old Law, the false Accuser was to undergo the same Punishment as the Person accused would have done, if he had been found guilty.

That the Office of a Judge was an Office of great Honour and Trust: By the old Statutes they were reckoned among the *Magnates Regni* 2 R. II. &c. and these Authors of base Scandals were reckoned Sowers of Discord and Subvertors of the Peace of the Common-wealth, and their Offences had been punished with more than ordinary Punishment. By the 25th of *Edw. III.* it was declared Treason to kill a Judge in the Execution of his Office. By the Law Books, if one draw a

Page 308.

The Penalty of
drawing a
Weapon, or
striking before
a Judge.

Weapon upon a Judge sitting in Judicature, though he strike him not, he shall be imprisoned for Life, forfeit his Goods and Lands, and lose his Right Hand. If one strike a Juror, or any other Person, in *Westminster-Hall*, while the Courts are sitting, he shall lose his Hand, Goods and Lands during Life. See 19 *Ed. III.* Judgment 174. 22 *Ed. III.* 13. *Mich.* 6 *Edw. III.* *coram Rege Rot.* 55. *Stamford's Pleas of the Crown* 38.

That Mr. *Harrison's* Offence was not the charging Judge *Hutton* with Treason in a legal Way, (that might be done where there was just Cause) but for doing it without any Colour or Ground, and in such an insolent Manner, while this Reverend Judge was sitting in the Seat of Judgment.

37 *Hen. VI.* 3. If one call another Traitor, an Appeal lieth before the Constable and Marshal, and if the Appellant be kill'd in Battle, it is justifiable.

30 *lib. Aff.* One called Justice *Seaton* Traitor, and answered well in Damages, as appeareth more at large in the Record, than in the printed Book.

Mich. 5 *Car.* in *Banco Regis*, Nicholas *Jeoffes* was indicted and fined in the King's Bench, for writing a Petition, wherein he said the Lord Chief Justice *Coke* was a Traitor.

The Defendant might have expounded a Text, but was not to expound Statutes; let him keep within the Compass of his Profession: That this Offence was *contra Coronam & Dignitatem*, a Scandal on the King's Judges and Ministers, and reflected on the King himself; and his Majesty had therefore commanded his Counsel to prosecute him. *Mich.* 33 & 34 *Edw. I.* in *Com. Banco*, *Rot.* 75. Roger de *Heigham* gave Judgment against one *De Bruce*, of a Noble Family, who asked the Judge if he would avow that Judgment, and being answered, Yes, *De Bruce* said, Now thou hast thy Will, which of long Time thou hast sought. The Judge ask'd him what was that? My Shame and Loss, said *De Bruce*, and this I will think on. For which Offence, insinuating the Judge had done Injustice, he was indicted, and confessed

confessed the Crime; whereupon a great Fine was set upon him, and he was imprisoned during the King's Pleasure. The Record saith, *Et quia sicut honor & reverentia, qui Ministris Domini Regis ratione officii sui faciuntur, ipsi Regi attribuntur, sic dedecus & contemptus ministris suis fact. eidem Domino Regi inferuntur, consideratum est quod prædictus Willielmus de Bruce districtus in corpore, capite nudo, toga deposita eat e Banco Domini Regis ubi placita tenentur in Aula Westmonasterii per medium Aulæ prædictæ cum curia plena fuerit, usque ad Scac. ubi deliquit & ibidem Veniam petat a præfato Rogero, &c. Et postea committatur Turri London' ibidem moretur ad voluntatem Regis.*

That the Offence contained in the Indictment was confessed in the Examination that had been read, and by the Defendant *ore tenus*, and therefore there was no Occasion for the Jury to go from the Bar.

Whereupon the Jury immediately found the Defendant guilty of the Indictment, and the following Sentence was pronounced against him by the Court, * (*viz.*)

' That he should pay a Fine to the King of
' 50000 *l.* and be imprisoned during the King's
' Pleasure, and should have a Paper upon his
' Head shewing his Offence, and go therewith to
' all the Courts of *Westminster*, and make his
' Submission in every Court in *Westminster-Hall*,
' and in the *Exchequer*; for it is an Offence to
' every Court.'

* *V. Croke's*
Rep. p. 362.
Thomas Harrison's
Case.

Sentence a-
gainst the De-
fendant.

The

Page 309.

* *Rush. Coll.*
 Vol. 3. p. 153,
 284. *Clar. Hist.*
 Vol. 2. p. 315.

*The TRIAL of Colonel NATHANIEL FIENNES, * before a Council of War at St. Albans, for cowardly Surrendering the City and Castle of Bristol, the 14th of Decemb. 1643, 19 Car. I. taken out of the Account given thereof by Mr. Prynn and Mr. Walker.*

COLONEL *Fiennes* having been charged with the cowardly Surrender of *Bristol*, endeavoured to justify himself by a set Speech in the House of Commons, and a Narrative of the Fact; and obtained an Order of the House, that his Conduct might be examined in a Council of War.

Mr. *Prynn* and Mr. *Walker* printed Answers to the Colonel's Justification, and were thereupon summoned to the Council of War, to make good what they had alledged against Colonel *Fiennes*: And being thus made Parties, they petitioned the General to appoint a Time and Place for the Trial, and drew up Articles against the Colonel, presenting both their Petition and the Articles to the House of Commons, who ordered a Copy of the Articles to be sent to the General, on *Wednesday 15 Nov. 1643.*

On *Thursday Decemb. 14.* The Trial came on before a Council of War at *St. Albans*, in a Room adjoining to the Town-Hall: The Lord *Roberts*, President of the Council of War, having ordered the Articles to be read, Mr. *Prynn* observed that the Doors were shut, and desired they might be thrown open, and all People admitted to hear the Trial; for he and Mr. *Walker* were Prosecutors by a Special Order of Parliament, and they conceived the Trial ought to be free and open, agreeable to the Proceedings of Parliament, and all other Courts of Justice in the Realm.

Mr. *Prynn* desired the Trial might be publick.

Page 310.

Colonel

Colonel *Fiennes*, on the contrary, desired the Hearing might be private, according to the Custom of such Courts, and was seconded by Dr. *Dorilaus*, Judge Advocate, who alledged, That it was against the Stile and Course of a Court Martial, to be publick and open.

Mr. *Prynn* replied, That not only in the Courts of Common Law, but in the Admiralty, and all Courts, proceeding by the Rules of the Civil or Canon Law, the Proceedings had ever been publick and the Courts open; and even in the late Proceedings by Martial Law before Colonel *Fiennes* himself, at the Trials of *Yeomans* and *Butcher* at *Bristol*, the Proceedings were publick: That the Trial of Mr. *Tomkins*, *Chaloner* and others, before a Council of War at *Guild-Hall, London*, was in Presence of both Houses of Parliament and the whole City; and this being a Case of the same publick Nature, and equally concerning the Kingdom, ought to receive as publick a Trial.

To which *Dorilaus* said, That he himself protested against that open Trial of *Tomkins* and *Chaloner*, but was over-ruled therein, to give Satisfaction to the Parliament and City; That all Councils of War in other Countries were private, and ours ought not to be guided by the Common or Statute Laws, or the Course of other Courts, but by their own Orders; it was against the Nature and Constitutions of such Councils to be publick.

Prynn answered, There was as great Reason to give the Parliament, the City, and the Kingdom, Satisfaction in this, as in the Cases above-mentioned; That Courts Martial ought to regulate their Proceedings by the Courts of Law, and not to controul them, especially at a Time when they had taken up Arms to defend their Laws and Liberties; That it was both against the Laws and the Liberty of the Subject to deny any Prosecutor an open Trial, and thus to chamber up and restrain Justice; That all Causes of this Nature concerning the cowardly Surrendring of Towns, were formerly tried in full Parliament, as appeared

Page 309.

* *Rush. Coll.*
 Vol. 3. p. 153,
 284. *Clar. Hist.*
 Vol. 2 p. 315.

*The TRIAL of Colonel NATHANIEL FIENNES, * before a Council of War at St. Albans, for cowardly Surrendering the City and Castle of Bristol, the 14th of Decemb. 1643, 19 Car. I. taken out of the Account given thereof by Mr. Prynn and Mr. Walker.*

COLONEL *Fiennes* having been charged with the cowardly Surrender of *Bristol*, endeavoured to justify himself by a set Speech in the House of Commons, and a Narrative of the Fact; and obtained an Order of the House, that his Conduct might be examined in a Council of War.

Mr. *Prynn* and Mr. *Walker* printed Answers to the Colonel's Justification, and were thereupon summoned to the Council of War, to make good what they had alledged against Colonel *Fiennes*: And being thus made Parties, they petitioned the General to appoint a Time and Place for the Trial, and drew up Articles against the Colonel, presenting both their Petition and the Articles to the House of Commons, who ordered a Copy of the Articles to be sent to the General, on *Wednesday 15 Nov. 1643.*

Mr. *Prynn* desired the Trial might be publick.

On *Thursday Decemb. 14.* The Trial came on before a Council of War at *St. Albans*, in a Room adjoining to the Town-Hall: The Lord *Roberts*, President of the Council of War, having ordered the Articles to be read, Mr. *Prynn* observed that the Doors were shut, and desired they might be thrown open, and all People admitted to hear the Trial; for he and Mr. *Walker* were Prosecutors by a Special Order of Parliament, and they conceived the Trial ought to be free and open, agreeable to the Proceedings of Parliament, and all other Courts of Justice in the Realm.

Page 310.

Colonel

Colonel *Fiennes*, on the contrary, desired the Hearing might be private, according to the Custom of such Courts, and was seconded by Dr. *Doriflaus*, Judge Advocate, who alledged, That it was against the Stile and Course of a Court Martial, to be publick and open.

Mr. *Prynn* replied, That not only in the Courts of Common Law, but in the Admiralty, and all Courts, proceeding by the Rules of the Civil or Canon Law, the Proceedings had ever been publick and the Courts open; and even in the late Proceedings by Martial Law before Colonel *Fiennes* himself, at the Trials of *Yeomans* and *Butcher* at *Bristol*, the Proceedings were publick: That the Trial of Mr. *Tomkins*, *Chaloner* and others, before a Council of War at *Guild-Hall, London*, was in Presence of both Houses of Parliament and the whole City; and this being a Case of the same publick Nature, and equally concerning the Kingdom, ought to receive as publick a Trial.

To which *Doriflaus* said, That he himself protested against that open Trial of *Tomkins* and *Chaloner*, but was over-ruled therein, to give Satisfaction to the Parliament and City; That all Councils of War in other Countries were private, and ours ought not to be guided by the Common or Statute Laws, or the Course of other Courts, but by their own Orders; it was against the Nature and Constitutions of such Councils to be publick.

Prynn answered, There was as great Reason to give the Parliament, the City, and the Kingdom, Satisfaction in this, as in the Cases above-mentioned; That Courts Martial ought to regulate their Proceedings by the Courts of Law, and not to controul them, especially at a Time when they had taken up Arms to defend their Laws and Liberties; That it was both against the Laws and the Liberty of the Subject to deny any Prosecutor an open Trial, and thus to chamber up and restrain Justice; That all Causes of this Nature concerning the cowardly Surrendring of Towns, were formerly tried in full Parliament, as appeared

Page 311.

ed by the Cases of *Gomines*, *Weston*, the Bishop of *Norwich* and others; That the Council of War had a double Capacity, 1. To deliberate on Military Operations, and these ought to be concealed. And 2dly, To proceed Criminally as a Court of Justice; and in this respect it ought to be open to all. And thus it was in the High Court of Parliament; when they debated on the Affairs of the Kingdom, they were private, none but the Members of the House admitted; but when they acted as a Court of Justice for the Punishment of Malefactors, then their Proceedings were always open and publick; and so they ought to be in this Council, to satisfy both the Parliament and People, whose Eyes were fix'd on it, and not huddled up in a Corner. That Colonel *Fiennes* himself, who had made such Professions of his Innocence, ought not to decline an open Trial, since Truth and Innocency sought no Corners; his Honour and Honesty was now openly charged, and ought to be as openly discharged.

Then the Lord *Roberts* demanded of Mr. *Prynn*, What he meant by a publick Trial, whether only the Reading the Articles and Answer, and Examination of the Witnesses, or the Councils private Debates among themselves after the Hearing? To which *Prynn* replied, That he meant only the former of these; That the Judges Debates in the Courts of Law were many Times private after Hearings, till they came to deliver their Resolutions in Publick: Whereupon all were commanded to withdraw; and one of the Council being sent to the General to report the Arguments insisted on on both Sides, the General at length ordered, That the Trial should be private.

Ruled that the Trial should be private.

The Preliminaries being settled, the Articles were read, entituled, *Articles of Accusation and Impeachment against Colonel Nathaniel Fiennes, late Governor of the City and Castle of Bristol, touching his dishonourable Surrender thereof to the Enemy, contrary to his Trust and Duty; exhibited by Clement Walker, and William Prynn, Esqs; in the Behalf of the Commonwealth of England.* They

They set forth, 1. That the said Colonel Nathaniel Fiennes did suddenly apprehend, imprison and remove, Colonel Thomas Essex, from the Government of *Bristol* City and Castle, on Pretence that he intended to deliver up the same to the Enemy, and obtain'd the Government of the same himself, undertaking to defend them for the King and Parliament, and not to surrender them without the Order of the Parliament.

Articles against
Col. Fiennes.

2. That soon after the said Colonel became Governor of *Bristol*, he condemned and executed some of the chief Citizens by Martial Law, particularly Mr. *Yeomans* and Mr. *Butcher*, for only intending to deliver up the Town to Prince *Rupert*, tho' they did not actually surrender it.

3. That the Colonel put the Parliament, City and County to a great Expence, in furnishing the City with Ammunition and Provision, and fortifying of it, and putting in a Garrison capable of defending and maintaining of it for three Months; and did promise several Gentlemen to defend it as long, if it should be besieged.

4. That notwithstanding the Premises, when the Enemy came before the Town, with no extraordinary Forces, he surrendred it within three Days, before they had taken any of the Outworks, or rais'd the least Battery against the City or Castle, contrary to his Trust, Promises, Duty, and the Honour of a Soldier; but did cowardly and traiterously deliver up the same, with the Prisoners, Canon, Ammunition, Provisions, and Colours, without the Consent of the Parliament, or their General, into the Hands of Prince *Rupert*, and other common Enemies of the Kingdom and Parliament, to their great Prejudice and Loss, the evil Example of other Governors, the Loss of most of the Western Parts of *England*, and the Strengthening of the Enemy; and that upon very dishonourable Articles, and even those he neglected to see observ'd, to the Impoverishment of the Inhabitants and Garrison.

Page 312.

5. That the said Colonel, without the Privy of any Council of War, demanded a Parley, when
several

several Officers and Soldiers advis'd the contrary, and would have repuls'd the Enemy; That the Surrendring the said City and Castle was principally occasion'd by the earnest Persuasion, Advice and Cowardice of the said Governor; and when the Council of War had unanimously voted, That it was not safe or honourable to depart the Town, unless they might march away with half their Arms, and their Colours; he told them plainly, they must deliver up all to the Enemy, but what was excepted in the Articles, and leave their Arms and Colours behind them: That he caus'd the Town to be deliver'd up an Hour before the Time agreed on, and suffer'd the Enemy to possess themselves of it before the Soldiers were march'd out, whereby many of them were pillaged, and the best affected Inhabitants plundered.

6. That during the three Days Siege, he gave no Encouragement to the Soldiers, tho' they kill'd near a Thousand of the Enemy, with the Loss only of eight Persons, by his own Account; and when a small Number of the Enemy, not Two hundred, had entred the Line of Communication on the 26th of *July* last, and gave themselves for lost, not being follow'd by any more for two Hours; the said Colonel neglected to beat them out again, as he was advis'd by Captain *Bagnal*, Colonel *Davison*, and others, who would have undertaken the Service; but on the contrary call'd off the Soldiers from the Line and Outworks, and founded a Parley, when the Enemies were so beaten that they threw down their Arms and cried for Quarter; insomuch that the Soldiers and Inhabitants cried out, They were betray'd.

7. That notwithstanding his Promises to defend the City to the last, he had an Intention of delivering it to the Enemy, before they besieged it, as appear'd by his refusing to send away the Prisoners formerly taken out of the Castle, before the Enemy approach'd, saying, He would detain them to make his own Conditions; and by his commanding Mr. *Hassard*, the Master Gunner, to lay

lay aside thirty Barrels of Powder, with Bullets proportionable, for a Reserve in Case of Extremity, and yet surrendred before he was reduc'd to this large Reserve; and by other Speeches to the same Effect, and by moving Sir *William Waller* to depart from *Bristol* before it was besieg'd.

8. That the said Governor surrendred when he had fixty Barrels of Powder there, besides twenty more in the City, and other Ammunition and Provision proportionable, sufficient for 1000 Men for three or four Months; all which were surrendred to the Enemy, before any Battery or Assault made against the Castle, tho' he had more Men than were sufficient to defend it, by his own Relation, contrary to his Promises made to the Citizens, to defend it to the last, who were thereupon induc'd to send their Goods thither, with three or four Months Provision, most of which were seiz'd by the Enemy, to their utter Ruin, by the said Colonel's Delivering up the Castle before the Hour agreed on. Page 313.

9. That to aggravate this dishonourable Action, he had presum'd to justify the same before the House of Commons, and the whole World, by printed Relations and Letters, wherein he had cast an extraordinary Blemish upon the Houses of Parliament, and their General, the Earl of *Essex*, by suggesting, That if he had held out the said City to the last, he could not have expected any Relief from them in six or eight Weeks; whereas *Gloucester*, since besieged by a greater Force, was reliev'd in half that Time, having held out a Month's Siege, as *Bristol* might have done; tho' the said Colonel, to hinder the Relief of *Gloucester*, that it might be lost as *Bristol* was, gave out in Speeches to some Members of the House, particularly to Mr. *Samuel Brown* and Mr. *John Sedgwick*, that he would lose his Head if *Gloucester* held out three Days Siege.

10. That *Bristol* was so cowardly deliver'd up to the Enemy, that they had since publish'd in print, *That the said Colonel bestow'd the same on his Majesty, and it was deliver'd up beyond their*
Ex-

Expectation; and they could not have taken it, if it had been defended by the Governor, who eventually, at least, if not intentionally fortified it, and provided it with Ammunition and warlike Stores at the Country's Expence, only to surrender it to the Enemy with greater Advantage, and far more to the Prejudice of the Commonwealth.

Sign'd Clement Walker, William Prynne.

The ANSWER of Colonel Nathaniel Fiennes to the Articles exhibited by Clement Walker and William Prynne.

Col. *Fiennes's*
Answer to the
Articles.

1. To the first Article he saith, That he denieth that he suddenly apprehended, imprisoned, and remov'd Colonel *Thomas Essex* from the Government of *Bristol*, upon any pretended Cause whatever, or that Colonel *Thomas Essex* was ever Governor of the same; but acknowledges, That by an expresse Order from the General, he did send to the said Colonel, who then commanded a Regiment in the City, to remove from thence, and is well assur'd the General had good Cause to send that Order to him; That when he (*Fiennes*) receiv'd it, he executed it upon mature Deliberation, with most of the wisest and best affected Gentlemen to the Parliament, for the Preservation of that City, which in all Probability could not otherwise have been secured; and further denies, that he sought or desir'd the Government of *Bristol*, but on the contrary endeavoured to be freed from that Employment: And lastly, he denies, that he ever undertook to make good the City and Castle, or had any Charge of the Castle as a Fort; but on the contrary, declared he could not keep the City in the Condition it was, and that he would not be answerable for it, unless certain Propositions he sent to the Parliament might be granted; which he could never obtain; nor did he ever undertake not to surrender the said City or Castle without the Consent of Parliament.

2. To the Second, Colonel *Fiennes* saith, That a few Days after his sending away Colonel *Essex*, he discover'd and defeated a wicked Conspiracy between

between divers Citizens of *Bristol* and some Officers of Colonel *Essex's* Regiment, for delivering up the City to Prince *Rupert*; and apprehending several of the Conspirators thereupon, he preserv'd the City, and receiv'd the Thanks of both Houses for it; That afterwards, by Order of Parliament, and a Commission from the General, he call'd a Council of War, of which he was appointed President, and divers of the Conspirators receiv'd Sentence of Death, but he forbore to execute them till he had acquainted the Houses and the General with the Circumstances of the Case; Page 314, and then, according to a Vote of the Commons and his Excellency's Command, he did execute Two of the Principal Conspirators, viz. *Yeomans* and *Butcher*, notwithstanding the Intercession of the Mayor, Aldermen, and Citizens, and the Threats of the Malignants, who were so powerful there, that they procur'd his Majesty to send a Letter by a Trumpeter into the City, commanding them to rise and rescue the Conspirators; notwithstanding which, he, the said Colonel *Fiennes*, put the Sentence in Execution at Noon-day, in the Middle of the Town. In all which he conceiv'd, he had discharg'd his Duty faithfully, temperately and resolutely.

3. To the Third he saith, That notwithstanding he had, with infinite Pains, endeavour'd to fortify and furnish the City with Canon, Ammunition and Provision, and had drawn a Line about it, which was almost finish'd without troubling the Parliament; yet he denies, that he ever did or could raise a sufficient Garrison to defend it against all the Power of the Enemy for three Months, or for three Days; or ever promis'd any Gentlemen or Inhabitants to keep it so long, if it should be besieged.

4. To the Fourth, He denies he deliver'd up *Bristol* against the Consent of the Parliament or General, or traiterously and cowardly, &c. as the Article chargeth; or that he neglected to see the Articles agreed on perform'd; but says he defended the Town and Castle to the utmost Point,

not only of Duty, but Honour, and surrendred them upon good Conditions, considering the State they were in; That the Breaking of the Conditions were not to be imputed to him, but to the Unfaithfulness of the Enemy, and the Disobedience of some of his Soldiers; That he did not surrender the Town or Castle till after the Line or principal Rampart of the Town was enter'd, and the Enemy lodg'd within it; That the City had no Walls on that Part against which the Enemy lay, nor were they at all defensible in any Part on that Side of the Town; nor could the Castle prevent the Enemy, who were lodg'd in the Suburbs, by *Froomgate*, from immediately entring the Town; and neither the Works of the City or Castle could or ought to have been kept in the Condition that Things then stood, to the Prejudice both of City and Garrison, but ought to have been surrendred together with it, as was the constant Practice and Policy of War, according to the Principles of Justice and Honesty, the Rules of Wisdom and Discretion, and for the Honour and Advantage of the Kingdom and Parliament.

Page 315.

5. To the Fifth he answereth, That he did not, without the Privity of the Council of War, demand a Parley; nor was the Place surrendred by his Advice or Cowardice; but on the contrary, he was advis'd to the Treaty, by far the major Part, if not by the unanimous Consent of the Council of War; and he denies, that when the Council of War voted, That it was neither safe or honourable to depart the Town, unless they might march out with half their Arms and their Colours, he did thereupon, at a private Conference, agree they should leave their Arms and Colours; but on the contrary affirms, That he bid the Soldiers make Conditions for themselves, the Gentlemen of the Country for themselves, and the Citizens for themselves, which they did accordingly; That when the Gentlemen and Citizens had made their Terms to their Satisfaction, he (Col. *Fiennes*) was the Chief, if not the only Man who took Exception to the Conditions for
the

the Soldiers, and was about to break off the Treaty, unless the Enemy would allow them all their Horses, Arms and Colours, till, at the earnest Persuasion of the Mayor and Citizens, and the Council of War, he was contented to take half their Arms and Colours, if they could obtain them; and he would have insisted on this to the last, if his Soldiers had done their Duty; That the Enemy agreed the Troopers should have their Horses and Swords; but while they were debating the other Point in the Council of War, six or seven of his Officers came out of the Town, and told him that they could not get six Men a-piece of their Companies together, they ran over to the Enemy so fast; whereupon, by the Advice of the Council of War, he did yield to that Condition; That Captain *Birch* coming in, and desiring a more clear Expression for the Citizens to carry away their Effects, and Colonel *Gerrard*, the Enemy's Commissioner, boggling at it, he (Col. *Fiennes*) with great Earnestness protested *He would rather die than not provide for his Friends and their Estates, as well Citizens as Soldiers*; and thereupon Colonel *Gerrard* consented they should have three Days Liberty, to resolve whether they would stay or depart with their Goods, which was only a Confirmation of the first Article of the Treaty: And lastly, he denies that he delivered up the Town an Hour before the Time agreed on; but he gave Order to his Captain Lieutenant *Stokes*, to stay with his Company in the Castle till Prince *Rupert* sent to demand it; and ordered the rest of his Officers to draw their Men into the Marsh, whither he repair'd to them about nine a-Clock, and stay'd within the Town an Hour or Two afterwards: But the Enemy, contrary to the Articles agreed on, entred the Town, an Hour or more, before Nine, when they were drawing off to a Rendezvous, and fell upon their Men, disarming, dismounting, and pillaging of them; by Means whereof, and by no Fault of Col. *Fiennes*, many Soldiers and Citizens were pillaged and plundered.

Page 316.

6. To the Sixth, He acknowledges the Clause in his printed Relation, that the Enemy having entred in one Place on the 26th of *July*, were valiantly repuls'd in all Places else with great Loss; but denies, that to his Knowledge any Offers were made of beating them out, or that the Soldiers said they were betray'd, &c. and for the Rest denies every Part of this Article: On the contrary, he is ready to prove, that during the whole Siege, he encouraged the Soldiers to do their Duty, thanking some, praising and inciting others to do their Duty, sending them Bread, Wine, Victuals, and promising them Rewards; especially by his own Example, going the Rounds at all Hours of the Night, and repairing to the Places of the greatest Danger, and doing all that could be expected from a Governor; That the Place where the Enemy enter'd might have been defended, if the Troops, that were to have supported the Soldiers there, had done their Duty; That the Enemy were at least Two hundred when they first entred, and soon after dug down the Rampart of Earth, so that their Horse and Foot might enter, and then possess'd themselves of Walls, Houses, *Essex-Fort*, and other Places of Advantage; That within less than Hour after the first were entred, Three hundred Foot more, and a Regiment of Horse, with Ordnance, entred; and after them both Horse and Foot, as fast as they could; That he (*Colonel Fiennes*), made all the Haste he could to the Breach, but before he could get thither his Men were come off the Lines for half a Mile together, and his own Troop, which he was following, beaten off; That he afterwards used the best Means he could for repulsing the Enemy, and clearing the City, but his Soldiers and Officers refus'd to obey him, especially Major *Lewes*, till he sent him an Order to yield Obedience on Pain of Death; and by his and others Disobedience the Service was retarded, so that a Sally could not be made so seasonably as it ought to have been; tho' when it was made, it put a Stop to the Enemy, who had otherwise entred the Rest of the

Town,

Town, being already possess'd of Two of the greatest Works; That he did not cause a Parley to be founded till his Men were beaten back by fresh Forces; and he could not get Two hundred Men together, of Ten or Twelve hundred that were on that Side the Town; whereupon, by the Advice of a Council of War, he sent to demand a Parley.

7. To the Seventh he answereth, That he denies that it appears by any of the preceding Articles, or any Speeches of his concerning the Prisoners, or a Reserve of Powder, or Sir *William Waller's* Departure from *Bristol*, or any other Speeches of his, That he did not intend to defend the Town or Castle to the Utmost; but on the contrary he affirms, That he did often move Sir *William Waller* to free him from the Care and Danger of so many Prisoners, which he declined; unless it was that Sir *William* discharg'd Major General *Brett*, and some others, who led on the Enemy to the Attack of *Bristol*; That he entreated Sir *Arthur Haslerigge* and Captain *Birch* to take some of them on board a Ship when they left him, but they refus'd; That he order'd *Hassard*, the Master Gunner to reserve thirty Barrels of Powder for the Defence of the Castle, in case he should be forced to retire thither; but that *Hassard* even conceal'd those thirty Barrels from himself, when he sent his Brother to take an Account what Stores were left, and he really believ'd they had spent great Part of that last Reserve, and that the Enemy knew nothing of it till several Weeks after the Surrender: And lastly, That Sir *William Waller* needed not to be mov'd to leave *Bristol*; for when he was ask'd how he would dispose of himself and his Horse, in case the Enemy should advance towards *Bristol*, he answer'd, He must retreat; and it was necessary in many Respects he should draw out of Town; for if he had not, the Town would have been lost sooner than it was, and the Dishonour and Loss to the State been greater; That had Sir *William*, when he first came to *Bristol*, follow'd the Advice

Page 317.

Page 316.

6. To the Sixth, He acknowledges the Clause in his printed Relation, that the Enemy having entred in one Place on the 26th of *July*, were valiantly repuls'd in all Places else with great Loss; but denies, that to his Knowledge any Offers were made of beating them out, or that the Soldiers said they were betray'd, &c. and for the Rest denies every Part of this Article: On the contrary, he is ready to prove, that during the whole Siege, he encouraged the Soldiers to do their Duty, thanking some, praising and inciting others to do their Duty, sending them Bread, Wine, Victuals, and promising them Rewards; especially by his own Example, going the Rounds at all Hours of the Night, and repairing to the Places of the greatest Danger, and doing all that could be expected from a Governor; That the Place where the Enemy enter'd might have been defended, if the Troops, that were to have supported the Soldiers there, had done their Duty; That the Enemy were at least Two hundred when they first entred, and soon after dug down the Rampart of Earth, so that their Horse and Foot might enter, and then possess'd themselves of Walls, Houses, *Essex-Fort*, and other Places of Advantage; That within less than Hour after the first were entred, Three hundred Foot more, and a Regiment of Horse, with Ordnance, entred; and after them both Horse and Foot, as fast as they could; That he (*Colonel Fiennes*), made all the Haste he could to the Breach, but before he could get thither his Men were come off the Lines for half a Mile together, and his own Troop, which he was following, beaten off; That he afterwards used the best Means he could for repulsing the Enemy, and clearing the City, but his Soldiers and Officers refus'd to obey him, especially Major *Lewes*, till he sent him an Order to yield Obedience on Pain of Death; and by his and others Disobedience the Service was retarded, so that a Sally could not be made so seasonably as it ought to have been; tho' when it was made, it put a Stop to the Enemy, who had otherwise entred the Rest of the

Town,

Town, being already possess'd of Two of the greatest Works; That he did not cause a Parley to be sounded till his Men were beaten back by fresh Forces; and he could not get Two hundred Men together, of Ten or Twelve hundred that were on that Side the Town; whereupon, by the Advice of a Council of War, he sent to demand a Parley.

7. To the Seventh he answereth, That he denies that it appears by any of the preceding Articles, or any Speeches of his concerning the Prisoners, or a Reserve of Powder, or Sir *William Waller's* Departure from *Bristol*, or any other Speeches of his, That he did not intend to defend the Town or Castle to the Utmost; but on the contrary he affirms, That he did often move Sir *William Waller* to free him from the Care and Danger of so many Prisoners, which he declined; unless it was that Sir *William* discharg'd Major General *Brett*, and some others, who led on the Enemy to the Attack of *Bristol*; That he entreated Sir *Arthur Haslerigge* and Captain *Birch* to take some of them on board a Ship when they left him, but they refus'd; That he order'd *Hassard*, the Master Gunner to reserve thirty Barrels of Powder for the Defence of the Castle, in case he should be forced to retire thither; but that *Hassard* even conceal'd those thirty Barrels from himself, when he sent his Brother to take an Account what Stores were left, and he really believ'd they had spent great Part of that last Reserve, and that the Enemy knew nothing of it till several Weeks after the Surrender: And lastly, That Sir *William Waller* needed not to be mov'd to leave *Bristol*; for when he was ask'd how he would dispose of himself and his Horse, in case the Enemy should advance towards *Bristol*, he answer'd, He must retreat; and it was necessary in many Respects he should draw out of Town; for if he had not, the Town would have been lost sooner than it was, and the Dishonour and Loss to the State been greater; That had Sir *William*, when he first came to *Bristol*, follow'd the Advice

Page 317.

of him (Colonel *Fiennes*) and his Officers, or done as he promis'd, when he took Leave of him, he would have done better Service for the Preservation of *Bristol* and the Rest of *England*, than by the Course he took.

8. To the eighth Article he answers, That there were but fifty Barrels of Powder in the Castle, when it was surrendred, and that was Thirty more than he knew of; and that he was less able to defend the Town four Days, or the Castle fourteen with it, than *Gloucester* might be defended with the like Quantity twenty-four Days; That there were eleven Canon mounted about the Castle, and there was need of more to supply the Defects and Weakness thereof; but that there was not one there, or in the Town, fit for Battery, or to hinder the Approach of an Enemy effectually; That he had sent to *London* for three, but they were not arriv'd; That though he had no Charge of the Castle, more than of any House in Town, yet he had determin'd to make use of it for the Advantage of the State and their Friends, by making the Terms of Composition the better, by the Countenance thereof; and that he was at some Pains and Cost to furnish it with Ammunition and Provision; but affirms, he never gave Orders to the Commissary of Victuals to make Provision for more than a thousand Men for a Month, wherein he aim'd at a double Proportion, for he never hop'd to maintain the Castle for more than a Fortnight, or three Weeks at farthest; That he was contented, for good Reasons, to suffer those who were best affected to carry their best Goods into the Castle; and there was a special Article made, that they might carry them out at leisure; but some Citizens, who were upon guard there, made such haste to get them out on *Thursday* Morning, that they left their Posts, and the Gates of the Castle were so throng'd, that there was no getting in or out; That in the mean Time some of the Prisoners there got loose and grew disorderly, and some of the Enemy got in before their Time; whereupon he
(Colonel

(Colonel *Fiennes*) came thither, and with his Sword drawn, cleared the Passage, drew up the Bridge, and got some of his Soldiers to their Posts again, and had drawn all of them into the Castle, if he had not received News that the Enemy had broke into the Town contrary to the Articles, and were disarming and pillaging his Men: Whereupon he ordered his Lieutenant *Stokes*, to keep the Castle, and deliver it up to Prince *Rupert*, and was forced to go himself into the Marsh with Captain *Terringham*, one of the Enemies Hostages for the Security of the Soldiers both Horse and Foot, and of his Friends in Town: And lastly, he affirms, That the Castle was not tenable for a Quarter of the Time wherein he could possibly have been relieved: And if it had been tenable, yet neither by the Maxims of War, or the Rules of Christianity, ought he to have held the same; nor would it have been for the Honour or Advantage of those by whom he was entrusted, to have done it: And therefore it was his Duty to surrender it, together with the Town, as he did. Page 318.

9. To the Ninth he denieth that he hath done any dishonourable Action, or related any thing untruly in his Justification of the Surrender of *Bristol*; and doubts not to make it appear, that he had a harder Task to hold *Bristol* in the Condition it was in, and the Manner it was attack'd, four Days, than Colonel *Massey* had to defend *Gloucester* four Weeks; and was so far from declaring that *Gloucester* could not hold out three Days, that he often declared they might hold out till Relief came, if they had Ammunition enough; and fearing they wanted it he sent them several Barrels of Powder, or the Town had been lost: And that he desired those, who were concerned, to supply them with more; so far was he from desiring to hinder Relief being sent them, that it might be lost as *Bristol* was.

10. To the Tenth he answered, That it was an Article without a Charge, an Argument without Proof, for the Testimony of an Enemy could not be admitted against him; it being their Business

to disgrace their Enemies, but the Testimony of an Enemy was an Evidence for him, and he does affirm, that their Soldiers have expressed another Sense of the Action than this Article charges.

The Defendant insists on their proving the 3 first Articles.

The Articles and Answers being read, and the Prosecutors proceeding to produce their Proofs, the Defendant insisted that they should prove the three first Articles, which they supposed he would have admitted (*viz.*) 1. That Colonel *Essex* was Governor of *Bristol*. 2. That the Defendant removed him. And 3. That he himself was Governor of *Bristol*.

The first Day's hearing.

Mr. *Prynn* hereupon said, that he admired a Man of his Quality should deny that before the Council, which he had acknowledged before the Commons, and published in Print, but he should easily make good this Part of the Charge against him; for first, Colonel *Essex* was stiled Governor of *Bristol* by the Parliament, the General, the Garrison, and by *Fiennes* himself at his coming to *Bristol*. 2. He transacted all Things as Governor there. And 3. In the Book entituled, *Colonel Fiennes's March to, and Proceedings at Bristol*, Colonel *Essex* is stiled and acknowledged Governor of *Bristol*, as well as by his printed Letter to his Father, to justify his Removal, and by the Depositions which he took and published against him; and that Colonel *Fiennes* must blush to deny all this Evidence, and put them to prove what he had confessed.

To which Colonel *Fiennes* said, he confessed he was Governor *de facto*, but not *de jure*.

Prynn replied, He was placed there by the General, with the Approbation of the Parliament, and therefore was Governor *de jure*. 2. That he was obeyed as such. And 3. If he was not Governor *de jure*, all the Acts he had done were injurious and unwarrantable.

To which the Defendant said, That Colonel *Essex* had no Commission.

Prynn replied, He might have a Commission for ought he knew, but that the General, sending him thither to take the Command of the City, and the Parlia-

Parliament's confirming him, was sufficient to make him Governor *de jure*.

2. As to the Second, His removing and sending away Colonel *Essex* from *Bristol*, it was proved by his own printed Letter, and the Depositions published by his Directions, in *The full Relation, &c.* Page 319. As also in a printed Letter to his Father, where he says of Colonel *Essex*, *so my Lord General and the World be satisfied, that I had good Reason to send him away from Bristol according to his Direction; I would not have Things prosecuted too hard against him, although I am very much deceived, if many a Governor of a Town hath not been called to an Account in Point of his Fidelity, on weaker Grounds than those I have sent.*

As to the Third, *That he himself was never Governor of Bristol; Prynne* said, He seemed to have carried himself so dishonourably in that Post, that he was ashamed or afraid to confess himself Governor, but he should prove it by his own Warrants, wherein he confessed himself Governor; by his accepting that Title from all others; by the Parliament's, the General's, and his own Father's stiling him *Governor of Bristol*, in their Directions to him; by his executing the Authority, and receiving the Pay of Governor; by his own Draught of an Ordinance presented to the House of Commons by the Lord *Say*, for settling a sufficient Garrison in *Bristol*; in the very Articles of the Surrender of *Bristol, &c.* which prove, that if he was not Governor to keep, he was then Governor to surrender it, and left it to his Choice; for if he was not Governor, then had he no Power to surrender the City, and then must be condemned by his own Confession, as a Betrayer of it: And if he was Governor, he shewed himself unworthy of his Birth to deny it. But to conclude, The General's Proclamation posted up in *Westminster-Hall* by the Defendant's Procurement, summoning them to give Information against him, does three several Times stile him *Colonel Nathaniel Fiennes, late Governor of Bristol*; and therefore eternally concludes him.

Here

*Fiennes denies
he was Govern-
or of the
Castle.*

Here the Colonel confests'd *That he was Governor of Bristol*, but denied he was ever Governor of *the Castle of Bristol*, or *that ever he had a Commission to be Governor of the City of Bristol*.

To the first, *Prynn* replied, That he had the chief Command of the Castle, That he placed his own Brother, Colonel *John Fiennes*, there as Commander, and all Officers under him in the Castle; That he gave Orders for the Fortifying, Victualling, and Garrisoning it, and laid up his Magazines there, intending to make it his last Retreat, and therefore certainly was Governor of it; That though *Bristol* Castle and the City were formerly divided, the Castle lying in *Gloucestershire*, yet the Castle was united to the City by King *James*, and made Part thereof; and therefore, if he was Governor of the City, he must be Governor of the Castle too.

Page 320.

The Defendant replied, He had no Charge of it as a Fort, no more than of any House in the City.

To which *Prynn* said, The Castle was never reputed a House, but always a Castle, and a very strong one too, and therefore he must have the Government of it as of a Castle, and not as a House; That he himself esteemed it the strongest Fort about the City, fortified it, and made it his last Retreat, and promised to lay his Bones there rather than yield it up; therefore he certainly took Charge of it as a Fort, and must answer for surrendering it as a Fort.

Colonel *Fiennes* then objected, That the Castle was not mentioned in his Commission, and so he was not chargeable with it as a Fort.

From hence *Prynn* observed, That it was now evident by his own Confession, that Colonel *Fiennes* had a Commission to be Governor of *Bristol*, which he had just before denied; and though the Castle was not named in his Commission, it was included as Part of *Bristol*: For as Colonel *Fiennes*, by Virtue of his Commission, had built several Forts about *Bristol*, as they had done about *London*, which were properly no Part of the City, yet
no

no Man doubted, if any Officer had treacherously or cowardly delivered up any of these Forts to the Enemy, or any House in the City or Castle, fortified or not fortified, to the Loss or Hazard of the City, it would have been Treason by the Laws of War, much more for surrendering such a considerable Fort as *Bristol Castle*, without any Assault, though he found it not specified in his Commission.

Prynn said further, That he should prove by the Testimony of Captain *Bagnal*, that the Captain was twice sent up to *London*, to procure not only a Commission, but an Independant Commission, that he and his Garrison should not be subject to Sir *William Waller's* Commands, and that he received an Independant Commission accordingly.

Colonel *Fiennes* hereupon said, That he sent for this Commission, not to Guard the City against the Enemy, but to keep his Soldiers in order, who were mutinous, of which he gave an Instance in Colonel *Popham's* Regiment, who disobeyed him when they returned from taking *Sherburn*.

Prynn replied, That this was an absurd, irrational, and unsoldierly Distinction; for what Need was there either of a Garrison or Governor of *Bristol*, or of such a Commission to keep Soldiers in Obedience, but only to preserve the City; and he was confident, no General in the World ever granted a Commission to keep a Garrison in Order, and not to defend the Garrison'd Place, and desired the Commission might be produced to warrant this Distinction; That this pretended Disobedience of Colonel *Popham's* Regiment, was long after he received his Commission; That Colonel *Fiennes* would have taken from that Regiment the Plunder they had got at *Sherburn*, with the Hazard of their Lives, (and they were not sent upon that Service by *Fiennes*) which injurious, avaritious Act of his they justly opposed, and so kept the Booty he would have carried into *Bristol Castle*.

Page 321.

That his Commission being absolute, he had no Power to annex Conditions to it; he was to keep the

* Littleton,
Sect. 378, 379.
See Coke's *Institutes* on it, fo.
232, 233, 234.

the Town for the Parliament; this was the sole Use and End of it, and his Conditional Acceptance of it being repugnant to this, was void and idle. That both the Common * and Martial Law of *England* annex this Condition to every Governor and Officer of Trust, That he shall discharge his Trust, and keep that safe which is committed to his Custody, to the utmost of his Power, though it be not expressed in his Commission.

Then the Defendant objected, That he never sought after or desired the Government of *Bristol*, but declined it; to prove which he produced several Letters to the Lord *Say*, his Father, and one or two to the General.

To which *Prynn* replied, That all these Letters were his own or his Fathers, and not above two or three of them proved to be true Copies, and were no competent Evidence in his own Cause; That his Father was but *Testis domesticus* at best.

That the Substance of the principal Letter to the General, was only a modest Excuse of his Insufficiency for that Charge, such a one as a Bishop makes when he answers *Nolo* to the Question *Vis Episcopari*, when he has made all the Friends he could to procure the Bishoprick: This Letter therefore was no Proof of his Unwillingness to undertake the Government, especially since he did accept of it afterwards.

He also observed, That in another Letter he wrote earnestly to his Father to procure him the Commission, and sent Captain *Bagnall* twice on that Errand, as was attested upon Oath: It appeared also by these Letters, that he was himself the principal Informer against Colonel *Essex*, and the chief Instrument of his Removal, in order to intrude into his Place; That the Scope of all his Letters were only Complaints to the Parliament for more Money, without which he could not hold out the Town. No Complaint for want of Men, Arms, Ammunition or Provision; or that the Town or Castle was not tenable; and, as it was evident from his Letters, he wanted none of these Things,

Things, he must surrender them either out of Treachery or Cowardice.

He observed further, That Colonel *Fiennes* took upon him the Office of Governor long before he had a Commission; That he drew up Ordinances to pass the House, to enlarge his Power and Territories Twenty Miles round *Bristol*, and create him absolute Governor there; That he accepted of the Commission, and yet never acquainted the City, or Committee of Parliament with it, doing all Things in an imperious Manner without their Privy; That he held his Commission till he surrendered the Place, from all which he concluded, that he did ambitiously affect, if not injuriously usurp that Government for his own private Lucre, to the Prejudice of the former Governor, and the irreparable Damage of the whole Realm.

Here the Defendant's printed Relations were produced as Evidence of the Facts contained in the three first Articles; after which the Court adjourned. Page 322.

On the second Day of the Trial the Prosecutors proceeded to make good the 4th Article, when the Defendant objected to the Depositions taken against him before the Judge Advocate, as well as those taken by Sir *William Waller*, and Colonel *Carre*, by Commission from the General. 1. Because no Paper Deposition ought to be allowed in Cases of Life and Death, but the Witnesses ought to give their Testimonies *Viva voce*. 2. Because Sir *William Waller* was his Enemy, and in Confederacy with the Prosecutors; particularly, Sir *William* had directed his Officers to acquaint Mr. *Walker* with all the Passages they knew concerning Colonel *Fiennes's* Surrender of *Bristol*. 3. Because he had not joined with the Prosecutors in Commission, nor had Notice thereof, that so he might cross examine the Witnesses.

The second Day's Hearing.

Objections that the Witnesses were not produced *viva voce*.

To which *Prynn* answered, That the Defendant had proceeded in the same Manner against Colonel *Essex*; That in this very Cause he had taken out a Commission to examine Witnesses without the Prosecutors Privy, and they did but imitate

His Objection answered.

Page 323.
Over ruled by
the Court.

imitate him, and that by the Judge Advocate's Advice, who affirmed this Course to be legal and usual; That in the Admiralty, Chancery, Star-Chamber, and other Courts form'd after the Civil Law, they proceeded usually by way of Deposition; and that even in Common Law Courts, Depositions taken before the Justices were given in Evidence in Capital Crimes, as they were in all Courts Martial, particularly in the late famous Case of *Tomkins, Challoner*, and other *London* Conspirators, whose Examinations were given in Evidence one against the other; *and upon solemn Debate the Council did over-rule this Point against the Defendant.*

To the 2d Exception concerning *Sir William Waller*, *Prynn* protested that *Sir William* never excited, advised, or encouraged him in this Prosecution; but that it was the Defendant's Challenging them to shew any Mismanagement in his Conduct, and a real Desire of doing their Country Service, and to demonstrate the Vileness of this State-ruining Action, that engaged them in this Prosecution; That *Sir William Waller's* speaking to his Officers, *only to declare what they knew touching this Business*, could not be interpreted either Malice or Combination.

That as to his wanting Notice to join in Commission and cross examine the Witnesses, that the Defendant had made the Precedent, having taken out several Commissions to *Sir William Waller's*, and the Earl of *Manchester's* Army, to examine Witnesses, without giving the least Notice of those Commissions; That the Prosecutors had left their Depositions and the Names of their Witnesses with the Judge Advocate, from whom the Defendant might have had a Catalogue of them, and cross examined them; which since he had neglected to do after many Adjournments of the Trial, and taken no Exceptions till he came now before the Council, to put off the Trial again, there was no reason to allow of these frivolous Exceptions. *And the Council, after a short Debate, resolved, That the Depositions might be made use of.*

Then

Then Mr. *Prynn* proceeded in the Proof of Page 324. the fourth Article: First, By the Defendant's own Answer, wherein he observ'd, that the Substance of that Article was confess'd; as that he did surrender the Town and Castle, with the Cannon, &c. and Part of the Arms, soon after the Enemy had entred with an inconsiderable Number, and before they had made the least Assault on the Walls of the City or Castle, and before the Town had been besieg'd three whole Days; and yet in the same Branch of his Answer, he had the Confidence to deny, That he deliver'd them traitterously, cowardly, or dishonourably, contrary to his Promises (which were to dispute every Inch of Ground, from the Line to the City Gates, and from thence to the Castle Walls, which he would defend to the Utmost, and there lay his Bones, if he could not keep it, and make his Flag of Truce his Winding-Sheet, as was prov'd by divers Witnesses *); That he had confess'd further, That had the Outworks and Castle been never so strong and tenable, he was so far from resolving to keep them, that he ought not to have held the same, neither by the constant Practice and Policy of War, nor the Rules of Piety or Christianity, but ought to have surrendred the same with the Town. Whereupon *Prynn* made this Remark, That the Defendant was either resolv'd to lose his Head, or was so intoxicated with the panick Fear that seized him at *Bristol*, and had made his Pen and Brains stagger ever since, or he durst not have put in such an Answer to that Impeachment; That he had also in his Answer affirm'd, That this Surrender was made upon good and honourable Conditions, considering the State he was in: To which *Prynn* said, he supposed the Defendant meant he was in an ill Condition himself, should the Enemy have taken the Town by Force, the King having excepted him out of the Pardon; and therefore his

The Evidence
against the De-
fendant from
his Answer.

* Mr. *Powel*, Col. *Strode*, Col. *Stephens*, Mr. *Hassard*, Capt. *Bagnal*.

Cowardice prompted him to redeem his Head, and buy his Peace, with the voluntary Surrender of the Place, rather than defend it at the Hazard of his Life: And lastly, as the Defendant had affirm'd, that this Surrender was for the Honour and Advantage of the Kingdom; if he could demonstrate this to the Parliament and Kingdom, the honourable Council might acquit him; but till he did, he hop'd they would condemn him upon the several Passages in his Answer he had cited. *Then Prynne proceeded to produce the Rest of his Proofs, which he observ'd extended to all the Articles as well as this:*

The Evidence
by the Deposi-
tions of the
Witnesses.

1. That the Town wanted neither Men, Ammunition, or Provision; but that he had near 2000 Foot and 300 Horse, besides Voluntiers, and might have rais'd 6 or 8000 more in the City, which were more than besieg'd it; he prov'd by the Depositions of Colonel *Stephens*, *Anthony Gale*, *Arthur Williams*, *Able Kelly*, *James Powel*, and others.

2. That there were seventy Barrels of Powder in the Castle, with Match and Bullet proportionable, besides what was in the City and Forts, and might have been made in Town, which was prov'd by the Depositions of *Edward Bainton*, *Arthur Williams*, *John Batten*, Major *Wood*, and others.

3. That they had all Manner of Provisions in the City and Castle for three Months: Prov'd by the Depositions of *Nicholas Cowling*, *Able Kelly*, *James Powel*, *Dorothy Hassard*, *Mary Smith*, and others; That himself and others deem'd the City and Castle strong and tenable †: That he promis'd to hold it to the Utmost; to dispute every Inch of Ground; to retire into the Castle when he could not hold the City; to lay his Bones there rather than yield it, and make the Flag of Truce his Winding-Sheet.

Page 325.

† Col. *Strode*, Col. *Stephens*, Capt. *Bagnal*, Mr. *Powel*, Mr. *Cowling*, Major *Wood*, *Richard Lindon*, *Edward Watlin*, Mr. *Hassard*.

That

That the Town and Castle were not besieg'd three whole Days, prov'd by Colonel *Stephens*, Colonel *Strode*, *Able Kelly*, and others.

That the Enemy were generally repuls'd, losing near 700 Men, and as many more wounded, and the Town but six or eight; and that but 150 or 200 of the Enemy entred the Line about three in the Morning, who gave themselves for lost, and might easily have been cut off, none of their own Party knowing of their Entry till two Hours after; prov'd by *Arthur Williams*, *Joseph Proud*, *James Coles*, *Mary Smith*, Serjeant *William Hill*, *Stephen Radford*, and *Michael Sparks*.

That Major *Langrish*, and his Horse, who were to defend the Place entred, never offer'd to charge the Enemy, whom they might easily have cut off, but retir'd; That *Langrish* had been formerly complain'd off for his Cowardice and Negligence, and yet the Defendant continued him in his Post, and set him to guard that very weak Place where the Enemy entred; prov'd by *Joan Battin*, Colonel *Stephens*, Captain *Nevil*, Lieutenant *Clifton*, Captain *Husbands*, Capt. *Vaughan*, &c.

That the Day before the Enemy entred, *Thomas Monday*, of Captain *Henry Lloyd's* Company, told Major *Langrish*, in the Hearing of Colonel *Fiennes*, That the Enemy would probably enter first at the Place (where afterwards they did) unless an hundred Musketeers more were plac'd there; and that Colonel *Fiennes* said, *What does he prate*, and call'd *Munday*, *Saucy Knave*, for his good Advice; That *Langrish* having the Guard of that Place next Morning, suffer'd the Enemy to enter without making any Resistance, though he might easily have repuls'd them; That the Defendant never question'd *Langrish* for this Cowardice or Treachery, which was the only real Occasion of Surrendring the City, but justify'd him, endeavouring to lay the Blame on Lieutenant *Rousewell*, who seeing *Langrish* quit the Breach without Charging, call'd him Coward, and with three or four Musketeers bravely defended

it for a Time, till he receiv'd the Wounds of which he afterwards died, and was forc'd to retire for Want of being supported; and declar'd, That if he had been seconded by the Horse, or by twenty Musketeers, he could have repuls'd the Enemy; yet this dead Man was traduc'd to save *Langrish's* Credit; prov'd by *Thomas Munday* and Capt. *Henry Lloyd*.

That the Enemy being generally repuls'd with Loss, retir'd in Disorder to their Quarters, and one whole Regiment of Horse retir'd as far as *White-Church*, four Miles from *Bristol*, resolving never to come on again, if the News of Demanding a Parley, and the Hopes of a Surrender had not brought them back; and that divers of the Enemy confess'd, if they had been repuls'd or beaten out of the Breach, they had rais'd the Siege; prov'd by Serjeant *Hill*, Major *Wood*, *James Coles*, and the Defendant's Witnesses.

That from Three in the Morning, when the Enemy entred, till Ten or Eleven, they were never charg'd, unless by *Rousewell* and Captain *Nevil*, who charg'd them down Hill with only twenty Horse, an Hour after their Entry, and could have beaten them out, as the Captain believ'd, if he had been seconded by thirty or forty Horse or Foot; prov'd by Capt. *Nevil*.

That Col. *Fiennes*, instead of Commanding the next Troops in the Outworks to fall on the Enemy when they entred, as he was advis'd, commanded them, on Pain of Death, to draw off from the Lines, and retire into the City to the Market-place, fore against their Wills; whereat divers Soldiers * were discourag'd, and said they were betray'd, and retreating from the Line and Outworks in Disorder, many of them left their Swords, Muskets, Powder, Bullets, and even their Canon behind them, which might easily have been drawn off, it being down Hill, where-

Page 326.

* *Joan Battin, William Whiteborne, Serjeant Gale, Captain Bagnal, Thomas Munday.*

upon the Gunners nail'd up several of the great Guns, and the Works were left naked of all Defence for War two Miles together ; which strange Device and unmilitary Policy, made Major *Lewis*, and other experienced Soldiers, discontented, who had advis'd not to draw off from the Line, but to fall immediately on the Enemy.

That the Soldiers being drawn off the Line in such Confusion into the Market-place there, stood idle, without any Orders to sally, or do any Thing else for the Security of the City ; † and many of them left their Colours and went to the Ale-house, or to bed, so that their Companies were not half full ; whereas, if they had march'd against the Enemy when they first entred, or made a Sally as soon as they retreated from the Line, these Inconveniencies had been prevented ; That the Sally was not made till eleven o'Clock, †† and then but with 200 Men drawn from the Line ; the fresh Men in the Body of Reserve and in the Castle, with whom a Sally might have been made immediately, not being employ'd in the Service.

That when the Enemies were so beaten in the Sally, that they cry'd Quarter, and the Women with their Children offer'd to march up to the Canons Mouths and deaden the Bullets, and encourag'd the Soldiers to fight, working in the very Face of the Enemy, and blocking up *Frome-gate*, where they were likely to enter, with Wool-sacks and Earth, and the Soldiers generally offer'd to fight it out to the last ; yet was the Defendant's Cowardice such, that even then he sent out twice to demand a Parley ; || which made some of the Soldiers say, They were betray'd, break their Arms, and swear they would never serve the Parliament any more.

That the Castle was surrender'd, and the Enemy admitted into the Town long before the Hour

† Captain *Bagnal*. †† Major *Wood*, *William Whitehorn*.
|| Serjeant *Gale*, *Joan Battin*, Mrs. *Hassard*, *Thomas Munday*.

agreed on; the Soldiers and Townsmen pillaged before the Governor's Face, * and he took no Care to see Justice done them, neglecting to take Hostages to see the Articles perform'd: Which were not made between Prince *Rupert* the King's General, † and the Governor; but between the Governor and the Prince's Commissioners only; and that he made such haste to quit the Town, that he left Captain *Blake* and Captain *Husbands* in *Brandon-Hill* and *Prior-Hill* Forts, giving them no Notice of the Articles, or any Warrant to surrender them to the Enemy, to the Endangering their Lives and Liberties.

That Colonel *Fiennes* refus'd to send away the Prisoners before the Siege, saying, he would keep them to make his Conditions the better; That he told Mr. *Talboies*, that he should not be in *Bristol* at St. James Tide, || using Expressions as if he intended to surrender *Bristol* about that Time, as he did the very Day after St. James's; That he commanded *Hassard* to reserve thirty Barrels of Powder; ** That there were above 140 Bombs in the Castle, with a Mortar-piece; and when one of the Gunners importun'd him to let him make a Shot at the Enemy out of the Mortar-piece, the Defendant forbid him on Pain of Death; and the Mortar-piece and Bombs were surrendred to the Enemy, without making one Shot at them, tho' many Bombs were shot into the Town.

That the Castle and Forts might have held out to the Time of the Trial, †† and all the Devils in Hell could not have taken the Castle, if it had not been surrendred basely, for which the Enemy call'd the Defendant Coward; and said, they

Page 327.

* Major *Wood*, Col. *Strode*, and others. † *Richard Winstone*, Capt. *Husbands*, and others. || Mr. *Talboies*'s Deposition. ** *Richard Butler*'s Testimony †† Col. *Stephens*, Colonel *Strode*, Mr. *Powel*, Major *Wood*, Capt. *Bagnal*, *Thomas Munday*, *Richard Lindon*, *Edward Watlin*, *Nicholas Cowling*, *Joan Battin*, *Nicholas Coles*, *Mary Smith*, *Ethelred Huddy*, *Michael Sparks*, and others, attest this.

might thank *Fiennes* for delivering up the Town and Castle, which they could not have taken otherwise: And from the whole Evidence, *Prynn* concluded, That the Town and Castle, &c. were most dishonourably, cowardly and treacherously deliver'd up to the Enemy, without and against the Parliament and the General's Consent, who abhorr'd the Fact; and this ended the second Day's Hearing.

On the third Day, Colonel *Fiennes* enter'd up-
on his Defence, of which *Prynn* has been pleas'd
to give but a very brief Abstract, and not in the
Manner it was spoken *all together*, but by Parcels
or Paragraphs; to each of which we find a very
long Reply, possibly much longer in this printed
Account than it was at the Hearing.

The third
Day's Trial.
Col. *Fiennes*'s
Defence, with
Prynn's Reply.

1. The Defendant deny'd, That all the Arms were surrender'd to the Enemy, because it appear'd that all the Officers were to march out with their full Arms, and the Troopers with their Swords.

To which Mr. *Prynn* reply'd, That the Word *All* frequently signified the greatest Part; and since All the Foot were to march out without Arms, and the Troopers only with their Swords, leaving their other Arms, Canon, Ammunition, and Colours behind them, this Article was sufficiently and literally proved.

2. The Defendant denied, That he surrendered the City and Castle against the Parliament's and General's Consent; tho' he did it without their previous Consents.

To which *Prynn* reply'd, That what was done without a Person's Consent, if he dislik'd and disavow'd it afterwards, was done against his Consent in strict Propriety of Speech; and therefore being surrendered not only beyond, but contrary to the Parliament's and General's Expectations and Desires, was certainly surrendered against their Wills and Consents, as well as without them. That their Calling him to an Account for this Surrender, as contrary to his Trust, and their

Directions, was a sufficient Proof, that it was not only besides, but against their Consents.

3. The Defendant urg'd, That four Days before the Siege, he sent a Letter to the General to acquaint him with the Weakness of the Garrison, (That he had not above 900 Men besides Citizens) and to see in what Condition the General's Army was to relieve him; That he found the Army only 4000 Foot, and many of them sick; and therefore it was clear he could expect no Relief in six or eight Weeks Time; and he produc'd a Letter from the General to the Lord *Say*, the Defendant's Father, informing him, that he was sorry *Bristol* was in so much Danger, as by Colonel *Fiennes's* Letter to him it seem'd to be, and that himself was not then in a fitting Posture to relieve it, which troubled him the more, for that his Lordship's Son was engaged there; from whence the Defendant inferred the Necessity of Surrendring for Want of Succours.

Prynn reply'd, That he did but his Duty in sending to the General, and this would no more excuse his Treachery and Cowardice in surrendring the Town, than *Weston*, *Gomineys*, and the Bishop of *Norwich's* sending to the Governor of *Calais* for Relief, would excuse them; That in this Letter to the General he complain'd of nothing but the Want of Men; and their Witnesses had expressly prov'd, That at the Time of the Siege he had 2000 Foot and 300 Horse, besides 200 Voluntiers; and Major *Allen* brought him 200 more from *Malmsbury*, so that his 900 were encreas'd to 2500, and he might have rais'd 6 or 800 able Men in the City; therefore his Want of Men was but a Pretence; and if he did want them, why did he advise Sir *William Waller* to march away with 500 Horse, least they should spend his Provisions; either he thought the Town tenable while the Provisions were spent with the Garrison he had, or he spar'd his Victuals for the Enemy, rather than Sir *William Waller's* Men should partake of them, who would have made his

his Garrison 800 Horse and 2000 Foot, and in all Probability would have preserv'd the City, which was lost, as himself confess'd, by the Cowardice of the Horse, who refus'd to charge the Enemy when they were entred; and that the Enemy having lost 700 Men in the Attack, and the Town but Six or Eight, made him still in a better Condition to resist their Assaults.

As to his Despair of Succours in 6 or 8 Weeks, *Prynn* said, Hope was the last Thing that forsook a brave Man, and the first that deserted a Coward, who plac'd his Confidence any where rather than in his own Breast; That no Man, much less a Soldier and a Christian, ought to despair of God's Protection in a just Cause, even where he could see no human Probability of Succours; and his causeless Despair of timely Relief from God or Man, argued not only Want of Courage, but Want of Faith.

That valiant *Massey*, Governor of *Gloucester*, had much more Reason to despair of Relief; the Town not so strong as *Bristol*, the Garrison less, and the Forces brought against it greater; and yet *Massey* relying on God's Providence, and the Parliament's Care, receiv'd timely Relief within three Weeks after he sent for Succours, as *Bristol* would have done, if Colonel *Fiennes* had as much true Faith and Bravery as *Massey* had.

That *Bristol* would have been reliev'd much sooner than *Gloucester*; the Army being in a better Condition, and their Courage less daunted than after the Surrender of *Bristol*; and because the whole Kingdom look'd upon *Bristol* as the Key and Magazine of the West, and of infinite more Consequence than *Gloucester*, by the Gaining whereof the Enemy would be furnish'd with all Provisions and Ammunition by Land, and a Navy and Merchandize by Sea, and enabled to bring in the Strength of *Wales* and *Ireland* to their Assistance; and upon the Loss of *Bristol* many Men fell off from the Parliament and stood Neuters.

Page 329.

4. The Defendant alledg'd, That there was no Proof of his Surrendring the City, &c. *traiterously*.

Prynn answered, That though there was no direct Proof of a Correspondence with the Enemy, yet the Surrendring before the utmost Extremity, the Law interpreted Treason; That Fear and Cowardice were the most traiterous Passions, causing Men to betray their Reason, Senses, Liberties, Estates, Trusts, Friends, &c. Therefore, if he surrendred them out of Fear or Cowardice, without any traiterous Compact with the Enemy, the Surrender was properly stil'd traiterous; and though there was no direct Treachery prov'd, there were strong Presumptions of it from the Confessions in his Answer, as that *he never undertook not to deliver the City to the Enemy, and that the Parliament could not in Honour or Justice expect such a Promise from him; That he ought not to have kept the Castle when the Enemy had enter'd the Line, but to have surrendred the same, tho' tenable, to the Enemy, together with the City, by the Principles of Honour and Justice, the Rules of Wisdom and Discretion.* These join'd with his wilful Misinforming the Council of War at the Parley, that there were not above twenty Barrels of Powder, when there were seventy Barrels, besides what were in the Fort and City, were strong Proofs of his Treachery and indirect Dealing; his calling the Soldier *saucy Knave*, who inform'd him of the Weakness of the Place where the Enemy entred; his appointing Major *Langrish*, a noted Coward, to guard that Place, and never questioning him for his Treachery in abandoning it, but justifying him in print; his Refusing to send away the Prisoners in the Castle before the Siege; his Prohibiting the Gunner to fire a Mortar at the Enemy: All these Particulars laid together, and join'd with Captain *Roper's* Deposition, that the Lady *Newport* told the Countess of *Desmond* at her being at *Oxford*, as a Secret, a little before *Bristol* was besieg'd, That it would be deliver'd

liver'd to the King, as soon as his Forces came before it; and that there were Wagers laid at *Oxford* and *London*, as soon as the Siege of *Bristol* was spoken of, That the Town would be surrendered the 26th of *July*, the very Day it was yielded up afterwards; the Calling his Men off from the Line, and not suffering them to charge the Enemy, on Pain of Death, with his late and slender Sally, were sufficient to create a Suspicion, if they were not a positive Evidence, That *Bristol* was not only cowardly, but traiterously deliver'd up, as well in a proper as legal Sense.

5. The Defendant affirm'd, That the Town and Castle were not *cowardly* surrendered.

But before he proceeded further on this Article, he objected against the Prosecutors Witnesses brought to prove the Cowardice, That they were either ignorant Women, Enemies, or Persons who had been tamper'd with. Objections to the Witnesses.

The Prosecutors answer'd, That those Women declar'd not their own weak Opinions, but the Judgment of Men in the Matter; and that even those Women had shewn more Courage in defending the Town than *Fiennes*; that the Enemy were the properest Judges in this Case; and that as for Tampering with the Witnesses, nothing of that Nature appear'd; and Mr. *Prynn* retorted upon the Defendant, That his own Witnesses were much more to be suspected of Partiality; That they were under the Bond of Consanguinity or Alliance; they were his Kinsmen, or they were under his Command; they were his Officers, Soldiers, or Servants advanced by him, and that others had Debts and Arrears due to them from him, which they were promis'd to receive, if he was acquitted, and expected to lose, if he was condemned; and others of them *participes Criminis*, who might expect to be call'd to an Account for the same Crime, if he was condemned. Page 333.

Then the Defendant answer'd to Mr. *Prynn's* Objection, *That it must be a cowardly Surrender, because the Enemy were repuls'd that very Morning with the Loss of 700 Men; That the Killing*
of

of such a Number of Men was not so great a Discouragement to the Enemy, as the Entering the Place was an Encouragement.

And as to his being a Coward, the Defendant said, It appear'd he was no Coward, by his apprehending and sending away Colonel *Essex*; by his Executing the Malignants in *Bristol*, and his disarming the train'd Bands in that City; by his valiant Behaviour at *Worcester*, where he and his Brother, when the Forces were routed, were some of the last Officers that left the Field; by his Charging at *Keinton* Battle, next to Sir *William Balfour*, up to the Canon of the Enemy, and by some other Instances.

Prynne replied, That they did not charge him in the Articles with being a Coward, that was not now in Issue, nor that he had shew'd himself cowardly in all Actions since he was Governor of *Bristol*, But that he had cowardly surrender'd *Bristol*; That in this he did and might deal cowardly, tho' he might be valiant in other Instances; for as a Coward might now and then perform a valiant Action, being driven to Despair, or the like; so a brave Man might sometimes be guilty of a cowardly Action, and yet be no habitual Coward; of which they had a memorable Example in St. *Peter*, who, tho' he was of a bold and resolute Spirit, and the Stoutest of the Apostles; yet when he saw Christ brought into Danger of his Life, denied with bitter Oaths and Execrations that he knew him. *Prynne* answer'd further, That the Surprising Colonel *Essex* in a private House, when the Defendant had his Troops about him, and Colonel *Essex* only three or four Servants with him, was a greater Act of Prudence than Courage, and a Coward might have done as much; and as to his Apprehending the Conspirators, he had the City and Castle, a strong Garrison, and the major Part of the City and County in his Interest; and this therefore was no great Argument of his Valour; and when he executed them, the Malignants were all disarm'd, and their Party unable to make the least Resistance,

ance; and a Child might have put them to Death as securely as the Defendant; and the disarming the Trainbands to arm his own Soldiers and the best affected Citizens, was by the general Consent of the Mayor, Sheriff, and most of the Citizens, after the Conspiracy was detected, without the least Resistance; therefore no Act of Courage: That all the Horse being routed at *Worcester*, and his own and his Brother's Troops among the rest, was no great Argument of their Valour, and they might be the last in the Field, happening to be in the Rear of the Horse, and so could not get away first; and therefore this was no convincing Proof of their Valour, any more than his Charging in Sir *William Balfour's* Regiment at *Edgehill*, where none turned their Backs, since every Coward will Charge in Company, and there is greater Danger in flying than charging. However, admitting these Instances were an Evidence of his Bravery at such Times, it would not follow *that he did not cowardly surrender Bristol.*

As to the Defendant's other Argument to prove he did not surrender *Bristol* cowardly (namely) because he did not quit the City immediately upon Sir *William Waller's* Defeat, but raised Men and fortified the Town even after that; though many of the Country Gentlemen left the Town, and marched to *London* with Sir *William Waller*.

Prynne answered, This was rather an Argument of his Diligence than Courage; That the Enemy might have had no Intention to besiege it presently, and further, that an extraordinary Diligence in fortifying, was the greatest Argument of Fear and Cowardice, if not seconded with answerable Prowess in defending the Fortrefs; and therefore this Reason would rather convict, than acquit him of Cowardice: And the true Reason why so many Gentlemen deserted the City, as they had confessed, was not because they did not deem it tenable, but because they discerned that the Defendant had no Intention to hold it out to the last: And admitting a Governor should take all necessary Measures for Defence of a Place, yet if he shall

shall surrender it, as in this Case, in less than three Days, or runs away after he has stood a Charge or two, this will not prove the Town was not abandoned Cowardly.

To the Defendant's next Argument, That no Man could expect less Safety by a Surrender than himself, being excepted out of the King's Pardon, *Prynn* answered, That probably his speedy Surrender of a Place of that Consequence, might be with a View to purchase his Pardon of the King by it; and if he expected less Safety than another by the Treaty, this should the rather have engaged him to hazard his Life in defending it.

Page 335.

To the Argument, That he could not have been in more Danger by holding the Castle, than he was in defending the City, *Prynn* answered, He received no Hurt in defending the City, and lost but six or eight Men; and if he could with as little Danger have held out the Castle, his Crime and Cowardice were the greater in surrendering it.

Another Reason the Defendant urged, that the Town was not cowardly surrendered, was his Conduct when the Enemy entred; to prevent whose Taking the City he had only two Means left. 1. To fire the Suburbs, for which he issued out a Warrant that was not executed. 2. To fire the City behind them, and retire into the Castle, which last he could not do without the Death and Ruin of many innocent People; and which would have redounded infinitely to the Dishonour of the Parliament; That it would have been very difficult to have retired through the narrow Streets to the Castle, which was not large enough to contain half his Horse and Foot, and the rest must have been left to the Mercy of the Enemy: Upon which Considerations, and not out of Cowardise, he did, by *Clifton's* Advice, call a Council of War, and propose a Parley.

To this *Prynn* answered, That it was apparent from his own Representation of the Matter, That if the Suburbs had been fired, the City and Castle might have been saved, and therefore he
must

must answer for his Negligence in not doing it ; That *Hazard* the Gunner, and Major *Wood*, offered to fire them, and beat out the Enemy, but he would not permit it, and the Suburbs in that Part of the Town were not large.

That between that Part of the Suburbs and the Body of the City, there was a Key, not fordable for Horse or Foot, the Passage whereof was so short and difficult, that an hundred Men might have defended it against Ten thousand ; That had the Enemy gotten over the Key, yet were the Streets so narrow that they might easily have been Barricadoed ; and a Piece of Ordnance or two at the Head of every Street, with the Houses lin'd with Musketeers, would have secured it ; and had they been forced from thence, they might have retreated safely into the Castle ; That if the Castle alone would not have contained the Garrison, the Suburbs about it, which were defended by the Outworks, still in their own Possession, would : And farther, That that Part of the City beyond the Bridge on *Somersetshire* Side, was very

Page 336.

capacious, able to contain all his supernumerary Horse and Foot, though the other Suburbs and the Body of the Place had been taken ; and the Bridge having been broken down, might have been defended a long Time against all his Majesty's Forces : And not making use of any of these Advantages, his Pretences were false, and his Surrender cowardly beyond all Excuse.

Another Instance the Defendant gave of his

Courage was, That he stood in Places of the greatest Danger with his Troop, and that a Bomb falling in the midst of it, and doing no Hurt, he thereupon encouraged his Soldiers, saying, *God protected them.*

Prynn answered, That none of his Troop were hurt in that, or any other Place where he stood with them, and therefore the Danger was not great : And that this Place where he stood with them, under Alderman *Jones's* House, was more than Canon Proof, and the Bomb falling among them was merely casual : However, it made him
remove

remove with his Troop from thence ; That he himself never charged the Enemy with his Troop after they entred, and his standing with them before in a secure Place, was no great Proof of his Valour.

A farther Argument the Defendant used, to prove the Surrender was not cowardly, was, That the Parley and Surrender were both agreed on by a Council of War.

To which it was answered, That he himself first moved the Parley and Surrender, and influenced his Officers to consent to it.

Page 337.

That there were but few Officers, and but one Country Gentleman present at the Council, and several of those voted against a Surrender ; but had they been unanimous, as the Town and Castle had been proved to be tenable and sufficiently provided with Ammunition and Stores, the Opinion of the Council would not make the Cowardice less, but render them all liable to Censure.

The Defendant urging further, as an Argument of his Courage, That when the Enemy's Hostages swore they would come in by *Frome* Gate, the shortest Way, he refused them, and obliged them to come in by *Newgate*. *Prynn* answered, That *Frome* Gate was then so barricadoed up, it was impossible, and he must have been the weakest Man alive, if he would have destroyed the Defences of the City to let in his Enemies : But this arrogant Request plainly shewed what a mean Opinion the Enemy had of his Courage.

The Defendant also alledg'd, That at the Parley he told the Enemies, That the Motion for it proceeded only from himself, and not from the Citizens, that they might not think he was compelled by them to Surrender, though the Mayor shewed himself very timorous, and pressed for an Agreement with them : And that, when Captain *Birch* proposed that the Citizens might have Liberty to carry away their Effects, and the Enemies Commissioners opposed it, he (*Fiennes*) rose up, and with great Earnestness protested, That he would break off the Parley, and rather lose his Life

Life, and hold out to the utmost Extremity, than not provide for the Citizens and their Effects.

Prynn answered, That the Motion for a Parley proceeding from himself, was an Argument of his Fear; That he had here confessed he did not hold out the Town to the utmost Extremity; and that if he endeavoured to save the Citizens Goods, it was because he knew them to be Malignants and Friends to his Majesty; and if he would have held it for these, much more ought he to have done it for the Preservation of the Kingdom, which was greatly endangered by the Loss of it. But he was still of Opinion, That his Surrender proceeded from his Timidity, from his calling the Soldiers off the Line, and not charging the Enemy immediately, as he ought to have done, and especially from the contradictory Commands he gave, and his pale Looks, attested by *William Dean*, *Mary Smith*, Captain *Busbel*, and *Thomas Thomas*, and generally taken Notice of by the Soldiers; by his Haste in proposing a Parley before a Salley made, and again presently after the Salley, by his accepting the Articles in the Commissioners Names, which should have been in Prince *Rupert's*, who was not else obliged to observe them; and his not exacting an Oath, or due Caution for the Observation of them, after so much Experience of their Treachery and Truce-breaking; by his suffering one of the Hostages to depart the Town, and giving the same Liberty to the other, if Major *Allen* had not opposed it, as the Major had attested, while both the Governor's Hostages were in the Enemies Hands; by his suffering his Men to go off their Guards, the Prisoners to get loose, and the Enemies to enter the Place before the Time appointed for the Surrender; whereby many Outrages happened: Whereupon Colonel *Gerrard*, the Enemies Commissioner, foreseeing some Complaints would be made, desired Major *Wood* to carry a Letter to *Nathaniel Fiennes*, importing, That whereas many Outrages had been committed contrary to the Articles, which might be imputed to the King, he gave him to understand the Fault

was

Page 338.

was his own, who had neglected to look to the Performance of them: And if this Declaration did not satisfy him, he was ready to meet him Sword in Hand. Sign'd

Charles Gerrard.

Page 339.

By his leaving several Officers in their Posts without giving them any Notice of the Surrender; by his neglecting to march away with his Men in a Body, whereby they might have been of Service to the Parliament; though the Preservation of his Men was the best and only Reason he had given for the Surrender; by his cowardly Speeches concerning *Gloucester's* not being tenable; and Lastly, by his very printed Relation, Letter, Replies and Answer to the Articles, in which any understanding Man might palpably discern a Spirit of Trepidation and Cowardice to have seiz'd both his Brain and Pen, which had made him invent so many unworthy Shifts to excuse his Conduct: And if all these Proofs might be credited against his proofless Allegations, the Surrender must needs be cowardly.

Colonel *Fiennes* observes that *Prynn* rais'd the Report of *Bristol's* being cowardly surrendered;

Here Colonel *Fiennes* observ'd, That the Report that *Bristol* was cowardly and unworthily surrendered, was first rais'd by Mr. *Prynn*, in his Book entituled, *Rome's Master-piece*, p. 35. published Aug. 1. 1643, five Days after the Surrender of *Bristol*.

With *Prynn's* Reply to it.

Prynn answered, That this Assertion was false, for though the Book entituled, *Rome's Master-piece*, was Licensed the first of *August*, it was not all printed off till the End of *August*; before which Time several Mercuries and News-writers had divulged in Print, That *Bristol* was cowardly delivered to the Enemy; and in Truth, the Surrender was so sudden, beyond all Men's Expectations, that the very Tidings of it made most Men openly aver, That it was most cowardly and unworthily, if not treacherously surrendered to the Enemy; and that this was the Voice of the Parliament as well as the People, who were much dejected at the News; and which the Defendant himself

himself took Notice of, at his first Entrance into the House of Commons after this noble Exploit. Every one looked strangely on him with a discontented Aspect, and scarce any of his Friends moved their Hats to him, as was usual when a Member returned from any publick Service, and some of them put him in Mind of *Gominey's* and *Weston's* Case: Whereupon he found himself obliged to make an Apology in the House the 5th of *August*, in the Close whereof he desired, *That what he had affirmed might be examined at a Council of War, that so he might be cleared or condemned, according as they should find the Truth or Fals-hood of what he declared.* Which Passage being published in Print long before *Rome's Master-piece*, was a pregnant Evidence that the very House of Commons conceived this Surrender proceeded from his Cowardice or Treachery, else had there been no need of an Apology, or of such a Reference as this to a Council of War: By all which it was clear, that he was not the Author of the Report of its cowardly Surrender, but he himself, and others in Print, had raised the Report; besides, it was evident from the Deposition of Mr. *Stephens*, and many other Witnesses, That both the Soldiers and Citizens of *Bristol*, were discontented with the Governor's Parley and Surrender, when it was in Agitation, and openly said, they were betrayed; and even the Enemy concluded the Surrender was cowardly before the News came to *London*, where it was generally reported to be cowardly, or treacherously given up, upon the first Notice of it; That even the Women in the Streets called him Coward, and his own Mother would not believe he had so suddenly delivered up a Place of that Consequence, where he had promised to lay his Bones rather than quit it: Whereupon, he (*Prynn*) having some Relation to *Bristol*, made a more particular Enquiry into the Fact, and found the Surrender to be such as he had published in *Rome's Master-piece*, by the Approbation of the House of a Committee of the Commons,

Page 349.

who both authorized the Book, and concurred with him in that Opinion.

Then Colonel *Fiennes* alledged, That neither the City or Castle were tenable, and therefore the Surrender was not cowardly; which he endeavoured to prove from the Weakness of the Line and Works, and from the want of a sufficient Garrison and Ammunition; That he had not above 2000 Horse and Foot, which were not half enough, the Works being near five Miles in compass, and divided by a River, so that his Men stood very thin upon the Line, and had no Reserves, unless for some particular Places; whereupon his Soldiers were in most Places four or five Days and Nights together upon Duty; That the General himself had proposed to the House Three thousand Horse and Foot for the Garrisoning of *Bristol*; and with less, the Defendant said, he could not possibly maintain the City against the Enemies Forces, who had few less than seventy Colours, and according to others, an hundred; That he had but fifty Barrels of Powder, which would not have served two Days, according to what they had spent the two preceding Days: The City and Castle therefore being untenable in all these respects, and no Succours near to relieve them, his Surrender could not be deemed cowardly, but discreet and honourable, to preserve the Citizens Effects, and the Garrison consisting of 1500 Horse and Foot, to serve the Parliament, who then wanted Men in other Places.

Prynn answered, That the Works about the City and Castle were strong and tenable against all the Enemies Power, in the Opinion of the Defendant himself, who never complained of the Weakness of the Works of the Castle till the Surrender, but affirmed that they were strong, and that he doubted not to make them good against all the Enemies Power, as was attested by Colonel *Strode*, Captain *Bagnal*, Mr. *Powel*, and others; and in his printed Relation, p. 10. he confess'd, *That himself and some others had a great Opinion*
of

of the Strength of the Castle, though he had at this Trial spent a whole Day in describing its Weaknesses, [This shews how very short and imperfect an Account Prynne has given of the Colonel's Defence, especially in this particular, which is comprehended within the Compass of half a Page or less, though his own Charge and Replies seem to be extended beyond what they were at the Trial.] or rather his own, who, notwithstanding all these Imbecilities, had so great an Opinion of its Strength: And if the Defendant did not deem the Works sufficient, he must discover either extraordinary Folly in putting the Parliament to so great Charges to Fortify, Garrison, and furnish the City and Castle with Necessaries to hold out a Siege, or must be guilty of extraordinary Treachery, if he knew them not tenable when he gave out they were, thereby to induce the Gentry and Country People to bring in their Money, Plate, Effects and Provisions thither, as to Places of Strength and Security, as they actually did, on his Promises to defend them to the last, that so they might become a Prey to the Enemy, who had all the Ammunition, Provisions and Arms of those Parts delivered into their Hands at once; which they had not gained, if the Defendant had not fortified the Town and Castle, and affirmed them to be strong and tenable, and promised to defend the Castle to the utmost, if he should be obliged to retreat into it.

That the Town, but especially the Castle, was tenable also in the Opinion of others, particularly of the Gentry and Country People, who repaired thither as to a Place of Security, and liberally contributed to the Fortifications of it; and of the Citizens, who carried all their Effects to the Castle, and above three Months Provision; as appeared by the Depositions of *James Powel*, *Mrs. Hafsard* and others, and by the Piece lately published, stiled, *The Tragedy of Bristol*. Where Captain *Birch*, Mr. *Powel*, and other Citizens say, p. 5. *The Castle being strongly Fortified and Victualled, as being the last Place to retreat into, if*

the Town should be taken, being assured we should be able to keep it (till Relief came) as a Sanctuary for the Persons and Estates of such as were most active for the Parliament; divers of us accordingly brought in our Goods, with Provisions for our selves, and to help victual the Soldiers that were to be entertained in it. And this was the Opinion of many of the principal Officers and Gentlemen, as Colonel Stephens, Colonel Strode, Captain Bagnal, &c. as they had attested; and that even the Enemy's Commanders, upon viewing the Works of the Castle, said, God damn them, all the Devils in Hell could not have taken the Castle, had not the Governor cowardly surrendred it; and that they might thank Fiennes for it, &c.

And whereas the Defendant alledg'd, That Sir William Waller, and Sir Arthur Haslerig, deemed Bristol not tenable, because in a Letter from them they said, We think the Enemy will fall on this Night; if not, To-morrow Morning; and if so, What good will this Regiment do Bristol, if we perish? It is a Wonder to us to see our Friends delay Help where there is Safety.

Mr. Prynn observed upon this Letter, That it did not declare their Opinion as to the Tenability of Bristol, but their Importunity for Supplies from thence, and suggested that Bristol's greatest Security was in the Success of their Army, there being no Danger of a Siege while they were Masters of the Field: Besides, the Defendant had confess'd, that if Colonel Popham's Regiment had continued in the Town, it had not been lost; and that his sending it to Sir William Waller, was the Loss of the Town; consequently the Town and Castle, in respect of the Fortifications, were tenable, and only wanted Colonel Popham's Regiment, which he supplied by the new Regiments he raised before the Siege.

That the Weakness and Defects of the Castle were meer Inventions since the Surrender, for they were not once mentioned in the Council of War, when the Parley was in Agitation; The Defendant, his Lieutenant Clifton, and Major Holmes, had

had deposed, That in the whole Debate of the Parley and Surrender, the Castle was never mentioned or thought of; and therefore the Weakness of it was no Ground of its Surrender, as was now pretended; and the Defendant in his Answer had affirmed, that the Cause the Castle was not tenable, was, that he wanted Powder and Match, and not in regard of its Situation, or weak Fortifications now insisted on.

As to the Pretence of wanting a sufficient Garrison, the Defendant had 2500 Men in the Place, which were sufficient to defend it against the Enemies Power, as was evident by the Repulses they met with when they stormed it; and if they were sufficient to repulse the Enemy in his greatest Strength at the Attack of the Out-works, they were abundantly sufficient to defend the Town and Castle after 1400 of the Enemy were killed or wounded; They were more than enough to have defended the Castle, the Body of the City, and that Part beyond the Bridge, after the Suburbs were entred, and the Line wholly quitted on the *Gloucestershire* Side: Besides, he might have kept *Sir William Waller's* Men, or raised more, if he had judged his Garrison not sufficient: But they were abundantly sufficient to have maintained the Place against the Besiegers, who were not above seven or eight thousand Men, and those most of them Horse. For *Mr. Saville* had deposed *viva voce*, That he was in *Bristol* two Days after the Surrender, and there being a General Muster of Page 342. *Prince Rupert's* Foot in the Marsh, *They did not amount to above 1400 Soldiers; and demanding of the Officers how they came to have so few Men and so many Colours (of which there were about 40 or 50) was answered, That many of their Men were killed or wounded in the Siege.* So that they had more Foot in the City by seven or eight hundred, when it was surrendered to *Prince Rupert*, than the Prince had without.

That as to his Objection, That a Garrison of 3000 Men at least was necessary to defend *Bristol*, it appeared by the General's Letter, that such a

large Garrison was never thought of to defend *Bristol* only, but likewise to defend *Bath*, *Berkley* Castle, and the Country round about for 20 Miles, and to suppress Insurrections in the *Western* Parts.

As to his wanting Reserves to relieve his Men, he had confess'd, That Reserves might have been drawn from the Main Guard, and the Castle Garrison, who were not in any Action during the Siege; That he had Reserves for some particular Places, and it was unusual to maintain an entire double Garrison in any Place; That the Garrison of *Gloucester* had no Reserves, but were constantly on Duty without Relief, for 35 Days and Nights together, and yet held out till they were relieved; and the *Bristol* Garrison might have done the like, especially being furnished with good Store of *Bristol* Milk (Sherry) strong Wines and Waters; That there was no Sickness in the City, no want of Provisions or Necessaries, no Loss, but of eight Men, How then the City could be surrendred on Pretence of an Impossibility to keep it longer, was not easy to conceive, especially when the very Women were so brave as to offer to march with their Children, to the Mouths of the Enemy's Canon, and damp the Bullets.

As to the Pretence of want of Ammunition, they had proved that there were 1400 weight of Match, besides a Dray-load in the Castle, when it was surrendred, and a Match-maker with Materials in the Town to make more, besides a great deal in the City; That there were 90 Barrels of Powder by his own Confession in the Castle, besides what was in the City: And his alledging that even this would not have held out till he could have received Relief, was ridiculous; That there ought to be the same Rule in Case of Powder and Ammunition, as there was in the Case of Victuals. In the Articles of War lately published, People were not to say, they were reduced to Necessity, *unless there were a present and absolute want of Victuals, and all edible Things to sustain Nature:* And so there ought to be a present absolute want of

of all Powder and Ammunition, or any Fort might be betrayed upon remote pretended Necessities: A Governor ought to argue thus with himself; I have so many Days Powder left, and by good Husbandry it may last longer; the Enemy's Ammunition may fail before mine; however, it is better I should spend that little I have left against the Enemy, than yield it up to supply their Wants, and annoy our Friends; I ought therefore in Reason and Duty to be reduced to a present real necessity, not a surmised possible want of Powder, before I yield up a Fortress committed to my Trust, to the Prejudice of the whole Kingdom: As *Bristol* therefore wanted neither Men, Ammunition or Provisions when it was surrendered, it was unworthily and cowardly surrendered.

As to his main Plea, That he surrendered the City and Castle so speedily as he did, on purpose to preserve a Body of 1500 Horse and Foot for the Service of the State then wanting Men, and to preserve the Lives and Estates of their Friends;

Prynne answered, That he might be ashamed of so poor a Pretence to veil his Cowardice, when he surrendered in Truth to save his own Life and Estate; the Lives and Estates of the Garrison would have been much safer in the Town and Castle, than by surrendring them: For of 2300 Men compleatly armed at the Time of the Surrender, he brought scarce two hundred with him to *London*, and those stripped of all their Arms, and almost every Thing else: And had he really saved 1500 unarmed Men, as he alledged, this was but a poor Equivalent for the Loss of a Place of that Consequence, Strength, Shipping, Trade, Command by Sea and Land, with the Hazard of the whole Kingdom; better himself and 10000 brave Fellows had lost their Lives in Defence of it, yea, better the whole City had been ruined, if the State could not otherwise have been secured, than that the Enemy should so easily possess it, to the infinite Prejudice of the Kingdom. Admitting he had secured the Parliament 1500 naked Friends, he had gained them 50,000 Enemies,

Page 344.

with all the Arms, Strength, Ports, Traffick, Provisions and Wealth, that the *West of England, Wales, or Ireland* could afford, from whence several Thousand Enemies and Rebels were lately arrived in *Bristol*, to cut their Throats, possess their Estates, and lay the Kingdom waste; That the Loss of *Bristol* would probably cost the Parliament 30000 Lives, and it was an excellent Piece of good Husbandry, to endanger the Loss of 30000 Men, to save 1500, and at a Time too when they were in the greatest Security, surrounded by their own Works and Fortifications.

Page 345.

That it was a Governor's and a Soldier's greatest Honour to die fighting, to loose his Life to save his Country; but this unmanly Governor would neither hazard his own or other Mens Lives to save a City, a Parliament, a Kingdom; better all were lost, than his Life or the Garrisons endangered: This his chief Excuse therefore was the highest Manifestation of a cowardly degenerate Spirit: The Defendant would rather venture his Head in a Martial Trial, than his Life in a Breach, and for this deserved the Loss of both.

Page 346.

Reasons why a Governor ought to hold out to the utmost.

Then Mr. *Prynn* proceeded to enumerate the several Reasons why a Governor ought to hold out to the utmost Extremity, as already defin'd, (*viz.*) till there was a *real, necessary and present Impossibility of holding out any longer.*

And 1. To retard the Enemy's Progress, lest a whole Kingdom should be lost in a Moment, as *England* had, if *Gloucester, Hull, Plymouth, Exeter*, and other Places had made no longer Resistance than *Bristol* did, who were not so well furnished for a Siege.

2. To spend the Enemies Men, Ammunition and Provisions, a long Siege being usually the Bane of an Army.

3. To give a good Precedent and Encouragement to other Governors, and animate their Friends, the holding out of any Place being of great Encouragement to the neighbouring Towns, as appeared by the late Example of *Gloucester*. Whereas the sudden Loss of an eminent City struck

struck Terror into all adjoining Parts, as appear'd by the Example of *Bristol*, whose unexpected Surrender drew on the Loss of *Dorchester*, *Barnstable*, *Exeter*, *Dartmouth*, with most of the West, and had hazarded the Loss of *London*, and the whole Kingdom, had the Enemy pursued their Victory to *London* Walls, and not been unexpectedly repuls'd at *Gloucester*.

4. To give their Friends an Advantage of Surprising other Places, or going upon other Expeditions, and gain something equivalent to the Place besieged.

5. To deprive the Enemy of the Ammunition and Provisions in the Place, which, if spent in their Defence, to the Loss and Slaughter of the Enemy, the Canon clogg'd and render'd unserviceable, they could not have been readily supply'd from other Parts, and so the Place might be easily regain'd, if it could not be reliev'd; whereas by the unworthy and speedy Surrender of *Bristol*, the Enemy gain'd a City and Castle ready fortified, and furnish'd with Canon, Arms, Ammunition and Provision, sufficient almost for a Land Army, and Shipping enough to set out a strong Fleet to Sea.

6. To preserve the adjacent Towns, Forts and Countries, depending on the Holding out of the besieg'd Place, who upon a cowardly immediate Surrender, might be surpris'd and taken unprovided of Forces or Ammunition: The unexpected Surrender of *Bristol* was like to have endanger'd *Gloucester*; which would have been better provided, if *Bristol's* hasty Surrender had not prevented it.

7. If a Town be yielded up before there is an absolute Necessity for it, there is a certain present Loss to the State; whereas, if it held out, some unexpected Turn might happen to preserve it, either by Divisions or Invasions of the Enemy's Quarters; by a fortunate Repulse, such as *Bristol* had experienc'd; by Sickness in the Enemy's Camp; by unseasonable Weather, the Loss of a commanding Officer; by Mutinies, Want of
Pro-

Provisions, Despair of Success, &c. for which last Reason the Enemy had retir'd from *Bristol* in two or three Days more, had those who enter'd the Line first been repuls'd, as they might easily have been; and infinite other Contingencies there are that might have occasioned the Raising the Siege; and he deserv'd not the Title of a Soldier, much less a Christian Soldier, Governor or Commander, who would not trust God to the utmost Exigency, and relie upon him for a seasonable Deliverance and Relief; which the Defendant, for Want of Faith as well as Courage, durst not do, and so yeilded up all.

8. If absolute and present Impossibility of longer Defence was not made the only Rule of utmost Extremity, they would open a wide Gap to Treachery, to the Overthrow of Martial Discipline, and Ruin of the Kingdom; it being easy for a Governor to invent plausible Excuses, and to find Witnesses under his Command to attest them, and by Pretext thereof betray and yield up the most considerable Towns in the Kingdom; and therefore, for all these Reasons, and to reduce Extremity to a Certainty, no other Extremity ought to be admitted, but only a present absolute Impossibility of holding out any longer; to which the Defendant was not reduc'd.

In Answer to *Prynn's* Reasons, Colonel *Fiennes* alledg'd, That whenever the principal Rampart of any Town was once entred by the Enemy, that was a sufficient Extremity to justify both a Parley and Surrender; and the Line of Communication which the Enemy entred, being the principal Rampart at *Bristol*, his Surrendring it on their entring the Line was justifiable.

Prynn reply'd, That the Entring the principal Rampart was no sufficient Ground for a Parley or Surrender, nor even the Taking the principal Fort, as long as the other Forts were tenable, by holding whereof, the Enemy might in Time be repuls'd out of the Outworks; and though the Line of Communication at *Bristol* was entred in one Place, not one of the Forts was taken; the
Body

Body of the City was defended by the Key; and all that Part beyond the Bridge, together with the Castle, were tenable and defensible; and therefore the Enemy's bare Entry of the Line was no Extremity to justify a Surrender in the Judgment of any but extreme Cowards.

Colonel *Fiennes* alledg'd farther, That if the Enemy had once entred or possess'd the Town, the Castle ought not to have been kept to the Prejudice of the Citizens, but it ought to be surrendered with the Town, by the constant Practice and Policy of War, and produc'd many Examples of this, both at home and abroad, particularly of *Mentz, Leipsick, Philipsburg, Portsmouth, Exeter, &c.* where the Towns and Castles were surrendered together, and yet none of their Governors question'd for it.

Prynn reply'd, That this was the grossest Absurdity that ever was broach'd by a Man in his Senses, and had he not been intoxicated with a Spirit of Puffillanimity, he would never have invented such a poor Subterfuge; for Castles were usually the strongest and most tenable of any of the Works, and best able to annoy the Enemy; and this was to argue, That the strongest Fort must be yielded, because the Weakest was entred, which he thought very unsoldierly; by the same Rule, if there were twenty strong Forts, and one weak one, all must surrender if the Weakest was taken; by the same Rule, if *London* was besieg'd, and the weakest Part of the Line entred, or *Hide Park*, or *Islington* Fort taken, the Lord Mayor might justify yielding up the *Tower*, the Town, and all the other Forts to the King.

Page 348.

That the Castle generally commands the whole Town, and those who are Masters of it are still Masters of the Place, and may soon regain the Town again; whereas by the Surrender of the Castle all is irrecoverably lost.

That as long as the Castle holds out, the Conquest is incomplete, less terrible and advantagious, and their Progress to other Places retarded, and the Forcing such Castles must consume their Ammunition, Men, and Money.

That

That this would be no Discouragement, but Encouragement to the Citizens, because their Effects would be thereby secured; their Town, Liberties, and Privileges, be preserv'd or regain'd; whereas, if the Castle be yielded, their Persons, Estates and Liberties, must be subjected to the Enemy's Tyranny.

And to answer the Colonel's Precedents of Castles surrendred with their Cities, *Prynn* produc'd one Example in Scripture, where the Castle did not surrender with the Town; and that was *Thebes*, which *Abimelech* having taken, came to the Tower, and fought against it; and endeavouring to set fire to the Door, had his Skull broke by a Piece of a Mill-stone thrown from the Walls, by a Woman; whereupon the Siege was rais'd; and had *Fiennes* retir'd into the Castle of *Bristol*, he said Prince *Rupert* might have been kill'd in the same Manner, and the Town regain'd.

Page 349.

Then he instanced in the Capitols, of holding out at *Rome*, when the *Gauls* had made themselves Masters of the City; in the *Tower of London's* having held out often, during the Wars between the Houses of *York* and *Lancaster*, when the City was possessed by the Enemy; in *Edinburgh*, *Berwick*, *Northampton*, &c. and last of all in *Bristol* Castle it self, which was held out by King *Edward II.* and the younger *Spencer*, against the Queen and her Son Prince *Edward*, after the Town was surrendred; he gave also some late Instances, as of the Castles of *Warwick* and *Nottingham* holding out against King *Charles's* Forces, when the Towns were taken, &c.

And as to the Precedents that the Colonel had cited, *Prynn* answered, That they were only alledg'd, and not proved; That it did not appear what were the Reasons of their Surrender; they might want Food, or other Necessaries; nor did it appear, that those Governors were not punish'd; and if they were conniv'd at, that was no Argument the Defendant should; and as to *Exeter*, which the Defendant had instanced in, it had held out more Months than *Bristol* did Days, till all their Powder

Powder was spent, and his sudden Surrender of *Bristol* was the principal Occasion of the Loss of *Exeter*, which surrendred however at last, upon better Terms than he had done.

A third Thing Colonel *Fiennes* alledg'd in his Excuse was, That some Generals had condemn'd Governors to Death, for holding out Forts too obstinately; and that a *French* Author he produc'd, affirm'd it was a capital Offence.

To which *Prynn* answer'd, That this Doctrine was calculated only for the Meridian where the Defendant was born; That no precedent could be produc'd in Story where the Governor of a Fort was condemn'd or executed for holding it out too long; and he doubted the Defendant had mistaken his *French* Author, who meant it only of Enemies, who had sometimes put a Governor to Death for holding out a Fort too obstinately; and thus it might have some Resemblance to the Defendant's Case. The poor Man was excepted, as he said, out of the King's Pardon, and so was like to suffer, if he held the Town or Castle till they were forc'd by the Enemy; wherefore, to save his beloved Life, and avoid the Rigour of the Law, he thought to purchase an Indemnity by his hasty Surrender of them to the King; and by this unworthy Shift, forfeited his Head to the Parliament and Kingdom, to secure it from the King.

Mr. *Prynn*, upon concluding his Reply, produc'd Colonel *Fiennes*'s Commission, and an Abstract of some Precedents in Point from the Parliament-Rolls*; the Commission was in the following Words:

‘ **R**obert, Earl of *Essex*, &c. To Colonel
 ‘ *Nathaniel Fiennes*. By Virtue of an Ordinance of the Lords and Commons in Parliament, I do constitute and appoint you Governor of the City of *Bristol*, as also Commander

* See these Records with some others, at the End of this Trial.

' in Chief of all the Forces rais'd, or to be rais'd
 ' and imploy'd for the Defence of the said City
 ' and the Liberties of the same, and of the Gar-
 ' rison there, to serve for the Defence of the
 ' King, Parliament, and Kingdom: These are
 ' therefore to will and require you, by Virtue of
 ' this Commission, to take the said City and
 ' Forces into your Charge, as Governor in Chief,
 ' and by all possible Ways and Means (except in
 ' Point of Civil Government) to provide for the
 ' Defence and Security of the same, and to main-
 ' tain the same against all Enemies and Opposi-
 ' tion whatsoever; and from Time to Time dili-
 ' gently to exercise the said Forces within the said
 ' City and Liberties, in Arms; commanding all
 ' Officers and Soldiers to obey you as their Go-
 ' vernor and Commander in Chief, for the Service
 ' above-mentioned, according to this Commission
 ' given you. And you are likewise to observe and
 ' follow such further Order and Direction, as you
 ' shall receive from my self and from both Houses
 ' of Parliament. Given under my Hand and Seal
 ' of Arms, this first Day of *May*, 1643.

Essex.

Page 351.

From this Commission Mr. *Prynn* observ'd, That
 it was evident *Fiennes* was constituted Governor
 of *Bristol* by the General, That he had the Com-
 mand of the Garrison to serve for the Defence of
 the King and Parliament; That he was by all
 possible Means to provide for the Defence and Se-
 curity of the same, and maintain it against all E-
 nemies whatever, to the utmost Extremity; That
 he accepted this Commission upon these very
 Terms; That he was to observe the Orders he
 should receive from the General and Parliament,
 and consequently not to surrender it without their
 special Order or Direction, which by his own Con-
 fession he never had; his Commission therefore
 being expressly violated in all these Instances by
 his Surrender, before he was reduced to the ut-
 most Extremity, was a sufficient Evidence to de-
 clare and condemn him for a Traitor, by the very
 Ord-

Ordinances of War. As to Precedents, he said he could produce many from foreign Histories, which he omitted as no conclusive Evidence, and therefore confin'd himself to such as had been adjudg'd in Parliament, the supreme Council of War, whose Judgments must direct all others, and which could not be controuled; That the Records themselves were long, and written in Law *French*, which he should therefore briefly open in *English*, and apply to the present Case.

‘ The first Precedent is the Case of *John*, Lord
 ‘ of *Gomineys*, who in the Parliament of 1 R. 2.
 ‘ n. 38, 40. was indicted and arraigned before the
 ‘ Lords, for that he being made Governor of the
 ‘ Town and Castle of *Arde* (in *France*) by King
 ‘ *Edward* III. to this Intent, That he should
 ‘ safely keep the same for the King and his Heirs,
 ‘ without surrendring them to any Person with-
 ‘ out their Command, did yet in K. *Richard* II.’s
 ‘ Reign, deliver and surrender the same to the
 ‘ King’s Enemies, without any Command from
 ‘ him, to the Dishonour and Disinheriting of the
 ‘ King and his Crown, and of the Realm of *Eng-*
 ‘ *land*, against his Undertaking aforesaid, without
 ‘ any Durefs or Default of Victuals or Artillery,
 ‘ or of any other Things necessary for the Defence
 ‘ thereof. To which Indictment the Defendant
 ‘ pleaded, That the Town and Castle were so
 ‘ weak, that he could not well keep them against
 ‘ so great a Power of the Enemies, as was then
 ‘ ready to assail them: Whereupon he assembled
 ‘ all the Knights, Esquires, and others in the
 ‘ Town, and informed them of the Dangers the
 ‘ Town was in, and of the Enemy’s Forces, and
 ‘ by common Council and Consent of them all he
 ‘ entred into a Treaty with the Enemies, to save
 ‘ the Lieges of the King within the Town and
 ‘ Castle, and thereupon yielded up the same upon
 ‘ Terms of Composition, receiving no Reward at
 ‘ all for surrendring the Town or Castle: But be-
 ‘ cause one *Geoffry* of *Argentine*, Knt. affirmed in
 ‘ Parliament, that he was then in Person within
 ‘ the

Precedents in
 Point from the
 Parliament-
 Rolls.

See *Grimston’s*
 History of the
Netherlands,
 p. 827, 828.

' the said Town and Castle, in the Defence
 ' whereof he was always ready to live and die,
 ' never consenting to the Surrender thereof; and
 ' because Sir *Ralph de Ferrers*, Knt. had valiant-
 ' ly defended them in former Times, against a
 ' great Force of the Enemy, when they were not
 ' so strong as at the Time they were surrendred;
 ' and because *De Gomineys* had undertaken to
 ' keep them, and if he could not have done it, he
 ' ought in no wise to have undertaken to keep
 ' them; and that another should and would have
 ' undertaken the safe keeping of them, had he
 ' not undertaken it; and for that he yielded them
 ' up in this Sort before utmost Extremity, when
 ' he wanted neither Men nor Victuals nor Am-
 ' munition, he was adjudg'd to lose his Head,
 ' notwithstanding his Plea, That he did it by the
 ' Advice of a General Council of War, to save the
 ' King's Liege People's Lives and Estates; and
 ' that the Town and Castle were weak, unable to
 ' resist the Enemy's Power.

Mr. *Prynn* observ'd, That this Town was of
 far less Importance to *England* than *Bristol*, and
 the Surrender made with the Concurrence of a
 Council of War, and yet the Governor lost his
 Head for not holding out to the utmost Extremi-
 ty; and if his Plea could not secure him from
 such a Sentence, Colonel *Fiennes's* Plea being the
 very same, That he surrendred the Place, because
 it was weak and untenable, and to save the Lives
 and Estates of their Friends, could not extenuate
 his Fault, or save his Neck from the Block, es-
 pecially since *Bristol* was better provided and for-
 tified, and more likely to be reliev'd than *Arde*
 was then.

See 1 R. 2.
 N^o 38, 40.

' The second Precedent was of *Pierce de Cres-*
 ' *singham* and *John de Spikesworth*, Esqrs; who
 ' were arrested and arraigned in Parliament 7
 ' *Rich. II. num. 7.* for yielding up the Castle of
 ' *Drinkham* in *Flanders* to the Enemies, from
 ' whom it was gained by the Bishop of *Norwich*,
 ' though

though it were well and sufficiently stored with
 Victuals and other Neecessaries, and strong e-
 nough to be held against the Enemies, without
 the Will or Command of the King, or his Lieu-
 tenant. To which *Spikesworth* pleaded, That
 he had never the Custody of that Castle, or any
 Thing to do therewith, but was chased into it
 by the Enemy, it being then in the Custody of
Pierce de Cressingham; That soon after the E-
 nemy assaulting the Barbican, he was unhappily
 routed, and one of his Varlets slain close by
 him; That he had never any Thing to do in the
 Castle, neither as a Soldier thereof, nor in any
 other Manner whatsoever, but only continued
 in it in Manner aforesaid, till it was surrender'd
 by the said *Pierce*, and therefore prayed, That
 it would please the King to have him excus'd.
 Whereupon it was order'd he should be set at
 Liberty, if nothing else could be said against him.
Pierce Cressingham, who had the Custody of the
 Castle, alledged, That upon the yielding up of
 the Town and Castle of *Burburgh* to the Enemy,
 of all the Garrison Soldiers he had with him at
Drinkham, none would continue with him for
 the Safeguard of that Castle, but only five Per-
 sons; by Reason of which great Neecessity he
 was constrain'd, for the Safety of his own Per-
 son and People, to enter into a Treaty with the
 Enemies to deliver up that Fort; and thereupon
 he yielded it up, and not for any other Cause,
 nor in any other Manner, but only by Constraint
 of the Power of the Enemies aforesaid, denying
 that he ever receiv'd any Thing from the Ene-
 mies, by Way of Gift, or in any other Manner:
 Whereupon he conceiv'd, That no Man ought
 to impute any Manner of Blame or Reproach
 upon his Person; but if it should be thought he
 had done ill in any Manner, he most humbly
 cast himself upon the Grace of his Liege Lord.
 But because this Excuse was held insufficient, he
 was committed to Prison till the King should
 otherwise declare his Opinion concerning him.

Page 352.

This, Mr. *Prynn* observ'd, was a Case of far greater Extremity than that of *Bristol*; and yet because the Governor, by Virtue of his Office, was bound to hold the Place to the utmost Extremity, he was adjudg'd to Prison, and to expect a farther Judgment afterwards; as to *Spikesworth* indeed, he was acquitted, because he came casually to the Castle, and had no Charge of it, either as Governor, Officer or Soldier, who were any of them punishable for delivering up the smallest Fort.

' The third Precedent is the Case of the Bishop of *Norwich*, accused in Parliament 7 *Rich. II.* num. 32. for Surrendring the Town of *Gravelin* to the Enemy before utmost Extremity, upon Condition that it should be totally demolish'd. To which the Bishop pleaded, that by Reason of the Disobedience of his Captains, who quit- ted the Field and betook themselves to their Forts, he was constrain'd to retire with his Forces to the Town of *Gravelin*, which he could have held out well enough against all Men, and did hold out till the other Captains had surrendred their Forts adjoining to the *French*; and after that, until speedy Supplies might have arriv'd from *England*; but because there were 6 or 7000 *Englishmen* who came out of the Forts surrendred, lying on the Sands near *Calais*, who could not get into the Town, and were in Danger to be slain by the *French* within two or three Days (the Truce being then expir'd) whose Loss would have been charg'd principally upon him; thereupon he was commanded by the King himself to render the Town to the Enemies, or else to demolish it, and then to march to succour the said *English*, and after that towards *England*, to save himself and others of his Army, in case they were in any great Want of Victuals, as in Truth they were; and because it behoved him to abate and void the Town, as it was lawful for him to do at his Pleasure, being gain'd by his proper Conquest from the Enemy,

it

' it seem'd to him that he ought to be well ex-
 ' cus'd of whatever was furmised against him
 ' (for compounding * with the *French* to raze the
 ' Town to the Ground, and to depart whither he
 ' would with his Bag, Baggage, and Men). To
 ' which was answer'd by the Lord Chancellor,
 ' That there was sufficient Victuals in the Town
 ' when the King's Letter came there; after
 ' which the King sent other Victuals thither in
 ' great Plenty, with Letters,* importing how he
 ' had appointed his Uncle to come speedily to his
 ' Aid and Succour; yet notwithstanding he de-
 ' parted thence leaving the Town to the Enemies
 ' against the Form of his Indenture, by which
 ' the King granted him whatsoever he should
 ' conquer, not at all to surrender, sell, or leave
 ' the same to the Enemy, but to hold and possess
 ' it. And as for the Disobedience and Defaults of
 ' his Officers, and their Surrender of the For-
 ' tresses, they neither could nor ought at all to
 ' excuse him, seeing they were all nam'd and
 ' chosen by himself, not by the King or his
 ' Council, and the Articles of the Surrenders
 ' seal'd between them and the Enemies were
 ' made without the Authority or Consent of the
 ' King; Wherefore, by the Assent of the Earls,
 ' Barons, and other Lords Temporal present in
 ' Parliament, it was assented and decreed, That
 ' the Bishop should be in the King's Mer-
 ' cy, (who out of his Grace would forbear to lay
 ' Hands on his Body in regard of his Function,
 ' tho' he might justly have proceeded against him
 ' as a Lay man;) that he should be put to a
 ' Fine and Ransom, according to the Quantity
 ' and Quality of his Offence, for which his Tem-
 ' poralties should be seiz'd, and whatever Mo-
 ' nies he had receiv'd from the King and im-
 ' ploy'd to his own Use, he should presently
 ' make full Payment thereof into the King's
 ' Treasury, without Delay or Difficulty.'

* See *Walsing-*
ham's Hist.
Angl. p. 327
to 330. Hol-
lingshead, Speed,
Grafton, Anno
6 R. 2.

Mr. *Pryn* observ'd, That all Colonel *Fiennes's*
 Excuses were pleaded here to justify the Action:

Not the saving 1500, but 7000 Men to serve the State; not in a Garrison, Town, or Castle, but lying on the open Sands, without Defence, in an Enemy's Country, in Despair of timely Relief, and wanting Victuals, and a Letter from the King, ordering him to quit the Town in Case of such Want; That this Town was won by the Bishop himself, not immediately committed to him, as *Bristol* was to the Defendant by the Parliament; neither did he yield the Town with all the Canon, Arms and Provisions to the Enemy, but only demolish'd it with the Fortifications, marching from thence with Bag and Baggage, his Men and Arms; notwithstanding which, and the gallant Service of this Martial Bishop in this Expedition, he incurr'd this heavy Censure, and had his Temporalities seiz'd: Consequently the Defendant deserv'd a severer Censure.

' The fourth Precedent is that of Sir *William*
' *de Elmham*, Sir *John Tryvet*, Sir *Henry de*
' *Ferrers*, and Sir *William de Farendon*, Knts.
' and *Robert Fitz-Ralph*, Esq; impeach'd in the
' Parliament of 7 *Rich. II. Rot. Par. numb. 24.*
' for surrendring the Town and Castle of *Bur-*
' *burgh* to the Enemy, and receiving Monies for
' the Arms, Victuals, Prisoners, and Goods within
' the same: To the which Sir *William de Elmham*
' and most of the others pleaded, that they were
' enforc'd to surrender the Town and Castle to the
' Enemy of Fine Force, for the Salvation of
' themselves, the Garrison, and People therein;
' the Enemy having besieged and assaulted it in
' very great Numbers, and set the Town on Fire
' within, who would have taken it by Force, and
' taken or slain all those within it, had they not
' yielded it by Agreement; and that the Monies
' they receiv'd was only for the Prisoners Victuals,
' and other Goods within the same, not for the Sur-
' rendring the Town it self: Yet notwithstanding,
' this Excuse was adjudg'd insufficient, and the
' Parties order'd to make full Payment to the
' King of all the Monies receiv'd from the Enc-
' my,

‘ my, to stand committed to Prison, to make Page 353.
 ‘ Ransom at the King’s Will, according to the
 ‘ Quantity of their several Offences, and Sir *Wil-*
 ‘ *liam de Farendon* left to the King’s Mercy, both
 ‘ for his Body and Goods, to do with them as he
 ‘ pleas’d.’

Here, Mr. *Prynn* observ’d, was a Town at-
 tack’d by a Multitude, fir’d in Part, and thereupon
 surrendred to save the Garrison; and a better
 Bargain than the Defendant made; they being
 allow’d to sell their Prisoners and Goods to the
 Enemy: Therefore the Defendant’s pretended
 Necessity, not half so real as theirs, ought not to
 excuse him.

‘ The fifth Precedent is that famous Case of
 ‘ *William de Weston*, in the Parliament of 1 R. II.
 ‘ num. 38, 39, 40. The Commons in this Parlia-
 ‘ ment pray’d, That all those Captains, who had
 ‘ rendred or lost Castles or Towns through their
 ‘ Default, might be put to answer it in this pre-
 ‘ sent Parliament, and severely punish’d according
 ‘ to their Deserts, by Award of the Lords and
 ‘ Barons, to eschew the evil Examples they had
 ‘ given to other Governors, or Towns and Castles;
 ‘ whereupon *John de Gomineys* (whose Case I be-
 ‘ gan with) and *William de Weston*, then detain’d
 ‘ Prisoners in the *Tower*, because they had lost
 ‘ and render’d the King’s Towns and Castles to
 ‘ the Enemies, were brought by the Constable of
 ‘ the *Tower* before the Lords in full Parliament,
 ‘ in the White Chamber; where *Weston*, by the
 ‘ Lords Command, was arraign’d by Sir *Richard*
 ‘ *Lescop*, Steward of the King’s House, in Man-
 ‘ ner following:

‘ *William de Weston*, You took upon you from
 ‘ the most puissant Prince (whom God assoil)
 ‘ *St. Edward*, late King of *England*, Grandfa-
 ‘ ther to our Lord the King, who now is, safely
 ‘ to keep to him and his Heirs, Kings of *Eng-*
 ‘ *land*, the Castle of *Outhbrewyke*, without surren-
 ‘ dring it to any one but to the said Grandfather.

' or to his said Heirs, or by Command from him
 ' or from his said Heirs: Have you *William*, who
 ' are a Liege-man of our Lord the King, in Times
 ' of the same our Lord the King who now is,
 ' true Heir to the said Grandfather, deliver'd and
 ' surrendred the same to the Enemies of our
 ' Lord the King, without Command from him,
 ' to the Dishonour (or Damage) of him and his
 ' Crown, and of the Estate of his Realm of *Eng-*
 ' *land*, against your Allegiance and Undertaking
 ' afore said? What will ye say hereunto?

' Whereupon the said *William* put in his final
 ' Answer in this Behalf: To the most sage Coun-
 ' cil of our Lord the King, and to the other
 ' Lords and Commons of the Parliament, suppli-
 ' cates and sheweth *William de Weston*, That albeit
 ' he be accus'd of this, That he hath maliciously
 ' rendred the Castle of *Outbreyke*, of which he
 ' had the Custody by Delivery and Assignment of
 ' our Lord the King; May it please your sage
 ' and just Discretion to have the said *William* ex-
 ' cus'd thereof, for these Causes ensuing: First of
 ' all, may it please you to remember how that
 ' the said *William* was lately inform'd by a Spy,
 ' that a great Power of the Enemies would come
 ' upon him to besiege the said Castle with very
 ' great and very grievous Ordnances; whereupon
 ' he, the said *William*, presently, by his Attor-
 ' ney, and by his Letters, required of the said
 ' Council, that it would please them to re-inforce
 ' the said Castle with more Men, for the Defence
 ' and Safeguard thereof, in regard that the Gar-
 ' rison of the said Castle that then was, were not
 ' half sufficient, in Respect of Multitude, to resist so
 ' great a Force in so large a Place: But in Con-
 ' clusion, for all this, he could not have any Suc-
 ' cour from the said Council; and so the said *Wil-*
 ' *liam*, not at all thro' his Default, was left with-
 ' out People sufficient for to keep and defend the
 ' said Castle any long Time; which he beseech-
 ' eth you to take into your just and benign Consi-
 ' deration. Also please you to know, how upon a
 ' *Monday*, about one of the Clock, the Enemies
 ' came

' came to besiege the said Castle, to the Number
 ' of 2600 Men of Arms, and 700 Arblasters Ge-
 ' nevoyes, and with 5000 of the Commonalty of
 ' the Country, having nine great Canons, divers
 ' Engines, and one great Mortar-piece, beyond
 ' all Measure greater than ever they had seen any
 ' before in those Marches; and the same Hour
 ' presently a great Number of the Men of Arms
 ' and Arblasters aforesaid, came before the Gates
 ' for to assail the said Castle, and at this Time a
 ' Knight of theirs was slain, who was Cousin to
 ' the Lord *de Clifton*, as was reported; and many
 ' others were likewise then slain and wrecked.
 ' And within a short Time after they began to
 ' shoot with their Ordnances and other Engines,
 ' and so continued their Assault from one Day to
 ' another, that is to say, *Tuesday, Wednesday,*
 ' *Thursday*; and then were the Walls and Houses
 ' of the Castle batter'd down and bruis'd in ma-
 ' ny Places, and they had likewise by Force
 ' trenched the Ditches of the said Castle in three
 ' Places, so as the Water was drain'd out; and
 ' that Night came a great Party of them, and by
 ' Fine Force made an Assault, and abated the
 ' Barricadoes, and the next Day (which was *Fri-*
 ' *day*) they came about Day-Breaking with all their
 ' Forces to assault the said Castle, but with God's
 ' Assistance they were yet repuls'd with Force
 ' from their Assault; and of the one Part and the
 ' other were some slain and wounded; and the
 ' same Day the Marshal of *Burgoyne* sent to the
 ' said *William*, and others of the said Castle to
 ' render it; whereupon having Consideration that
 ' the said Castle could not be kept, as well in Re-
 ' gard of the small Number of the People, as by
 ' Reason that the Walls in many Places were en-
 ' feebled by their marvellous Ordnance, there
 ' was a Treaty with the Lords to this End; That
 ' the said *William* and his Company might advise
 ' themselves against the Morning; and so they
 ' departed each to his Own: Also this same
 ' Night the Enemies caus'd all their Ordnances,
 ' Engines, Mortar-piece, Canons and Faggots,

with Scaling-Ladders, Galleries, and all other
 Necessaries, to be drawn up near to the very
 Ditch of the aforesaid Castle; and the next
 Day (which was *Saturday*) they made all
 Things ready plainly for to assault the Place:
 And then first of all sent an Herald to the said
William, to know if the said Castle should be
 render'd to them, or not? Whereupon the said
William, by Advice of the wisest of his Compa-
 nions, taking Consideration how that the said
 Place was destroy'd and enfeebled with their
 Ordnance, and also that they were too few Men
 for its Defence, by Reason that twelve of their
 Companions were in this Time slain, wounded
 and sick, so as there remain'd of all the People
 in the Garrison in Health, but only thirty-eight
 Men to defend the same; hereupon, by com-
 mon Assent the said Castle (which could be kept
 no longer) was by Force surrendred for to save
 their Lives granted to them, and their Goods.
 And that all these Things aforesaid are true, the
 said *William* put himself upon his Proof, ac-
 cording to your most discreet Ordinances: Also
 it is to be remembred, that when the said Ca-
 stle was thus rendred, as aforesaid, certain
French People bargain'd with the said *William* for
 his Victuals, to buy them, together with certain
 Prisoners which the said *William* held imprison'd
 within the said Castle, for which Things he re-
 ceiv'd of them for his Payment 1500 Franks; of
 which he paid his Companions for Part of their
 Wages, which was behind unto them, for one
 Quarter of a Year and an Half, seventy-eight
 Franks; likewise after was paid at *Calais* for the
 Victuals of the said Castle before that Time
 due, 442 Franks; also for the Passage of the
 said *William*, and of his Companions into *Eng-
 land*, and likewise for the Expences of the said
William being at *Calais* 135 Franks: And there-
 fore the said *William* prayeth in this Regard
 your Justice and Benignity, seeing by envious
 Suggestion he hath against all Reason been ac-
 cused; whereby his Estate and Name, by the
 grievous

grievous Sin of Mis-informers, and he also, is ruined; having likewise Consideration, That out of his proper Goods he hath for the greater Part paid his Companions their Wages which were due unto them, as aforesaid, and also for the great Costs he hath been at, before this Time, for to victual the said Castle (for which he hath given his Obligations in divers Places, and oweth great Sums, by Reason whereof he is on all Sides undone, if your just Benignities do not succour him) that you would be pleased, for God's Sake, and for Pity, to ordain likewise for him, that he may by your discreet Nobleness recover his Estate and Goods: Also the said *William Weston* sheweth, how the first Day, when the Enemies came before *Arde*, that he went in haste to *Calais* unto the Captain, and desired of him more Succour and Aid of Men, for the better guarding of his Fort of *Outhrewyke*, and to defend it if the Enemy should come thither; and the Captain answered him briefly, that he would not deliver nor give him Aid nor Succour at the same Time, because he doubted that the said Enemies would come before the Town of *Calais*. But notwithstanding all these Pleas, the Lords in this Parliament, together with the most valiant and discreet Knights and other Members thereof, after good and mature Deliberation hereupon, delivered their Judgment and Resolution against *Weston* in Form following: It seemeth to the Lords aforesaid, That you *William*, who had taken upon you safely to keep the Castle of *Outhrewyke*, as before is said, that you have without any Duress or Default of Victuals, evilly delivered and surrendered the same to the Enemies of our Lord the King, by your own Default, against all apparent Right and Reason, and against your Allegiance and Undertaking aforesaid: And having by due Information read the Case of the late Baron of *Graystock*, who was a Lord, and one of the Peers of the Realm, who had taken upon him safely to keep for the foresaid Grand-
father,

‘ father, the Town of *Berwick*; the said Baron
 ‘ perceiving afterwards, that the said Grandfather
 ‘ address’d himself to go into the Realm of
 ‘ *France*, the said Baron (without Command of
 ‘ the said Grandfather) committed the said Town
 ‘ of *Berwick* to a valiant Esquire, *Robert de Ogle*,
 ‘ as Lieutenant to the said Baron, for to keep safe
 ‘ the said Town of *Berwick* to the said Grandfa-
 ‘ ther; and the said Baron went as an Horseman
 ‘ to the Parts of *France* to the said Grandfather,
 ‘ and there remain’d in his Company; during
 ‘ which Time an Assault of War was made upon
 ‘ the said Town of *Berwick* by the *Scots*; and
 ‘ the said *Robert*, as Lieutenant of the said Ba-
 ‘ ron, valiantly defended the same; and at last,
 ‘ by such forcible Assaults, the said Town was ta-
 ‘ ken upon the said *Robert*, and Two of the Sons
 ‘ of the said *Robert* there slain in the Defence of
 ‘ the same. Notwithstanding, because that the
 ‘ said Baron himself had taken upon him the
 ‘ Safeguard of the said Town to the said Grand-
 ‘ father, and departed himself from thence with-
 ‘ out Command of the said Grandfather, and the
 ‘ said Town of *Berwick* was lost in the Absence
 ‘ of the said Baron, he being in the Company of
 ‘ the said Grandfather in the Parts of *France*, as is
 ‘ aforesaid; it was adjudged by Advice of the said
 ‘ Grandfather, the King of *Castile*, who is pre-
 ‘ sent, the Nobles, Dukes and Counts, *Henry* late
 ‘ Duke of *Lancaster*, the late Earl of *Northum-*
 ‘ *berland* and *Strafford*, and Sir *Walter de Man-*
 ‘ *ny*, That the said Town was lost in Default of
 ‘ the said Baron; and for this Cause he had Judg-
 ‘ ment of Life and Member, and that he should
 ‘ forfeit all that he had: And to render his Judg-
 ‘ ment in these Words, the said Sir *Walter* had a
 ‘ Command from the said Grandfather. Which
 ‘ Things considered, and this also, that you *Wil-*
 ‘ *liam* surrendred the Castle of *Outhrewyke* to
 ‘ the Enemies of our Lord the King aforesaid,
 ‘ without any Durels or Want of Victuals, against
 ‘ your Allegiance and Undertaking aforesaid, the
 ‘ Lords above-mentioned sitting here in full Par-
 ‘ liament,

liament, adjudge you to Death, and that you shall be drawn and hang'd. But because that your Lord the King is not yet informed of the Manner of this Judgment, the Execution thereof shall be respited until the King be informed thereof: Whereupon it was commanded to the said Constable, safely to keep the said *William*, until he had other Command from our Lord the King.

This Mr. *Prynn* observed was a Case in Point, wherein all the Defendant's Pleas, and far better than he could make, were Over-ruled; and draws a Parallel between the Surrender of *Outhrewick*, and that of *Bristol*; wherein he shews, That the Works and the Garrison of *Bristol* were much stronger, and their Condition in all respects better than that of *Outhrewyck*; for the Surrender whereof *Weston* the Governor was condemned to die: And therefore Colonel *Fiennes*, the Governor of *Bristol*, ought to undergo the same Punishment, namely, to be drawn and hanged, with much more Justice than the former.

Page 355.

Colonel *Fiennes* answered, That these Governors had all of them Commissions under the Great Seal of *England*, to keep the Places committed to them, which he had not; and this, he conceived, made a wide Difference between their Cases and his.

Prynn replied, If they had any Commissions, it must be under the Great Seal of *France*, the Towns lying in that Kingdom, as appeared by the Statute 14 *Edw.* III. and 1 *Hen.* VI. Rot. Parl. N^o 14, 15. That the King having carried the Great Seal from the Parliament, it was impossible his Commission should be under that Seal, unless he had it from the King in Opposition to the Parliament; and possibly he might surrender *Bristol* for want of a Commission under the Great Seal to keep it. But if this were a good Plea, all the Governors of Towns and Castles for the Parliament, might surrender them to the King without fear of Punishment: That he had a Commission from the General, who received his Authority

rity from the two Houses, and in these Times of Distractedness, that was as valid as a Commission under the Great Seal; but had he held out *Bristol* till the Parliament had caused a New Great Seal to be made (as they had lately) he might by this Time have received a Commission under that Seal.

Colonel *Fiennes* objected further, That it did not appear upon these Records what other Matters were proved against those Gentlemen; they might be condemned for other Things, that were omitted in them; and if not, their Cases seemed very hard, and their Sentences unjust.

Prynn replied, His Answer betrayed his Ignorance in Records, in which no Depositions of Witnesses were inserted, only a true State of the Case, and the Judgment thereon; and therefore, to surmise they were condemned for any thing else, was to aver against the Judges who gave those Sentences, and to falsify the Records.

Another Objection Colonel *Fiennes* made was, That *Outbrewyck*, *Arde*, and *Burburgh*, were Places of no great Wealth; and therefore ought to be held out to the utmost; but *Bristol* being one of the richest Cities in the Kingdom, ought not to be held out to the Ruin of the Town and Inhabitants.

To which Mr. *Prynn* said, That if Places of small Concern were to be defended to the utmost Extremity, much more such Cities as *Bristol*, the Loss whereof so much endangered the Ruin of the Realm; and the Surrender of it ought to be at least equally Capital: And as it appeared that those Governors were taken into Custody during their Trials, he moved, that *Fiennes* might also be confin'd immediately, and Judgment given against him according to these Precedents and the Laws of War.

When we had thus fix'd the Loss of *Bristol*, and of the *West*, on *Fiennes*, (says *Prynn*) the Colonel averred, That they were not lost by him, but by Sir *William Waller*, to whom he sent *Popham's* Regiment, consisting of 1200 Men, and Sir *William*

liam being routed near the *Devizes*, few of them returned to *Bristol*, whereby his Garrison was so weakned, that it occasioned both the Loss of *Bristol* and of the *West*.

To this *Prynn* answered, That he had received Reinforcements to supply their Places; but if he had not, it was his own voluntary Act, and if *Bristol* was lost for want of that Regiment, it must be charged upon him; that this alone would endanger his Head, it being Captital by the Laws of War, for a Governor to lessen his Garrison, if by that Means the Town was lost, as was adjudged in the Case of the Baron *Greystock*, cited in *Weston's* Case, and of the Earl of *Northumberland*, (*Henry Piercy*) 7 *Rich. II. &c.*

Colonel *Fiennes* urged further, That it was the Opinion of the Royalists, That *Bristol* and the *West* were lost by Sir *William Waller*; but he being the great *Diana* of the People, Colonel *Fiennes* was like to be made a Sacrifice and suffer for it.

Prynn hereupon observed, That hear-say Evidence was not to be depended on, and suggested, that this was only a Contrivance to asperse Sir *William Waller*; That the Gentlemen of the *West* looked upon *Bristol*, and that Country, to be lost by the Defendant, and not by Sir *William*, as appeared by their great Respect for him, and their desiring his being employed there to recover it again; and if there was such a Report at *Oxford*, to traduce Sir *William* and the Parliament, and justify the Defendant, no more could be inferred from it, than that Colonel *Fiennes* had better Friends at *Oxford* than Sir *William Waller*, occasioned by that great Service he had done them, probably, in surrendring *Bristol*.

Then Colonel *Fiennes* said, That this Prosecution and Disgrace had never befallen him, but for his constant Affection and Adherence to the General and his Family, for which, Sir *William Waller* and his Party malign'd him.

Prynn replied, This was a scandalous and seditious Speech, and discovered who had fomented the

Page 357.

the late unhappy Differences between the General and Sir *William Waller*, to foment Factions in the Parliament's Armies, and prevent their joining against the publick Enemy, and being perfectly destitute of Proof, he desired the Defendant might be prosecuted for it.

Colonel *Fiennes* concludes his Defence.

In fine, says *Prynn*, after some hear-say Proofs as to what Opinion the Enemy had of *Fiennes's* Bravery in defending *Bristol*, and the Untenable-ness thereof, with a Recapitulation of the Heads of his Defence, [Here it appears again how very short *Prynn* has been in reciting the Colonel's Arguments.] the Defendant concluded with these Words, (*viz.*) ' My Lords, I have at last ended
' my Defence, and (as I hope) sufficiently cleared
' both my Honour, Valour, and Fidelity to the
' State in the Defence of *Bristol*; and now I be-
' seech you to consider, whose Honour or Life can
' be in Safety, if Lawyers (Fee'd by their own
' Malice) may sift and turn up all his Actions, and
' snarl at his Words; if such, who are no Soldiers,
' may, upon the Information of Attornies, and
' Testimony of Shop-keepers, Ale-wives, Ene-
' mies, but of no Soldiers at all, (except such who
' appear out of particular Spleen) be brought
' thus upon the Stage for their Lives, and the
' great Privileges of Parliament broken by such an
' Impeachment of a Member of it, which could
' not be parallel'd, but by that Accusation of the
' five Members. Whereupon I desire, that as I
' have served my Country faithfully, and done
' many good Services for it, so I may by this
' Honourable Council be justified in my Faithful-
' ness, and repaired against the Prosecutors in my
' Honour, more dear unto me than my Life, that
' so, after all my publick Services, I may not now
' be cast behind the Door like a Dishclout, unfit
' for any farther Employment.

Prynn's Re-
ply to the Co-
lonel's De-
fence.

Mr. *Prynn* replied, He wondred the Defendant should except against him as an unfit Prosecutor, when he had challenged him to prosecute this Business against him; that though he was a common Lawyer, he was a proper Prosecutor of him
who

who had betrayed his Trust, and in it the Kingdom, contrary to Law: He protested he never had any Malice against the Defendant, but on the contrary had formerly honoured him for his Pen, (though never for his Sword) and bestowed some Courtesies upon him; That he (*Prynn*) was born and bred not far from *Bristol*, and had many Friends near it, who lost much, and himself not a little, by the Surrender; though nothing had engaged him in this Prosecution but the Defendant's own Summons, nor feed him, but the publick Service of the Parliament and Security of the Realm; though he had lost and suffered much for the Church and State, he had never received or expected the least Recompence or Reward from either; whereas the Defendant had received good Wages for all his Services, even for the Losing of *Bristol*.

That though he was not a profess'd Soldier, he had read more Treatises of military Affairs than the Defendant; that he had conversed with old Soldiers, particularly with Sir *William Balfour*, five Years in the *Tower*, from whom he had gained so much Experience in Martial Encounters, that he would have undertaken to have defended *Bristol* to that Day, had he been Governor of it; and why he should not be deemed Soldier sufficient to prosecute him, who by his own Confession, (at his taking the Government of *Bristol* upon him) and by his Actions, appeared to be no real Soldier, he could not conceive. As to the Witnesses whom the Defendant objected to, they were many of them Men of Quality, and Members of Parliament, others of them better Soldiers than the Defendant's Witnesses, all of them Persons of good Fame, and disinterested; whereas his own were either his Officers, his Relations, Servants or Creditors, and most of them involved in the same Guilt with himself; That the pretended Breach of Privilege was but a *Chimera* already over-ruled in the House of Commons, who referred him to a Trial before a Council of War, by two several Orders, upon his own Motion, and
voluntary

Page 358.

voluntary waving his Privilege before any Impeachment brought against him; That he needed not to have insisted on a Reparation of his Honour from them; they were impaired and ruined by himself in this ignoble Action; he had given the whole Kingdom a fatal Wound, an irreparable Loss by this Surrender, which the Loss of his Head and Estate could no way recompence; and for which, in the Name of the whole Kingdom, they there demanded Judgment against him; That if the Defendant was held innocent after so full a Charge, he was obliged to them for giving him an Opportunity of vindicating his suspected Fidelity; but if he was pronounced Guilty, as they made no doubt he would, after that convincing Evidence, they should deserve the Thanks of the Parliament, the Kingdom, and their Native Country, for bringing that grand, politick, daring Delinquent to his Trial and condign Punishment, who by the Surrender of *Bristol*, had endangered the Loss of three Kingdoms, their Laws, Religion, Liberties, and Parliament: Concluding, that they gave the Court their hearty Thanks, in their own and the Kingdom's Name, for their Nine Days Patience, and that fair, honourable and impartial Hearing; not doubting but they would pass such a Sentence, as should Record their Justice, and make this a leading Precedent, so as to deter all future Governors from making cowardly, traiterous, or unworthy Surrenders. Thus ended this Hearing, which was begun on *Thursday* the 14th, and ended on *Saturday* the 23d of *Decemb.* 1643, and both Parties were ordered to attend the Council of War again on *Friday* the 29th of *December*, to hear Judgment: At which Day both Parties attending, Colonel *Fiennes* was ordered to be disarmed at the Council Chamber Door, which daunted him, and being called in, the Judge Advocate read the following Sentence, (*viz.*)

The Sentence.

Colonel Nathaniel Fiennes, you have been arraign'd and convicted before this Honourable Council, for surrendring and delivering up the Town
and

and Castle of Bristol, with the Forts, Magazines, Arms, Ammunition, Victuals, and other Things thereunto belonging, and for not having held the same to the utmost Extremity, according as by your Duty you ought to have done: For which Offence this Honourable Council hath adjudg'd you to be Executed according to the Tenor of the Articles of War, by having your Head cut off. God have Mercy on your Soul.

The Colonel appeared astonished on hearing of it, and said, he little expected such a Sentence, demanding upon what Grounds they condemned him: Whereupon all were commanded to withdraw, and being called in again, the Defendant was told, *That it was against the Stile and Honour of the Council to demand the Reasons of their Judgment, after it was pronounced.* Then the Defendant claimed his Privilege as a Member of Parliament, alledging, he ought not to be condemned without the Privity of the House of Commons, to which he appealed against their Sentence.

Mr. Prynne answered, That he had formerly appealed from the Parliament to a Council of War, and voluntarily waived his Privilege, and he could not now resume his Privilege, and appeal back again to the House, after Judgment: However, his Appeal was entred, and a Guard set upon him; but on better Advice he withdrew his Appeal, and was afterwards pardoned by the General.

I shall close this Proceeding with some Cases of Cowardice referred to, &c.

Page 359.

Cases of Cowardice, referr'd to in the foregoing Trial, from the Records, by Mr. Pryn.

Statutes and
Cases relating
to Cowardice.

BY the * Laws of King Edward the Confessor, *he who flieth from his Lord or Fellow-Soldier for fear of War, or Death, in the Conduct of the Captain, in any Expedition by Sea or Land, let him lose his very Life, and the Lord may lay Hands on his Land. And he who shall be slain in War before his Lord, let his Reliefs be pardoned, and his Heirs enjoy his Money and Land, and divide it among themselves.*

By the Statutes of 18 Hen. 6. c. 19. 7 Hen. 7. c. 1. 3 Hen. 8. c. 5. 2 Edw. 6. c. 2. 4 & 5 Phil. & Mary c. 2, 3. 5 Eliz. c. 15. *It is made no less than Death for any Soldiers to depart from their Captains without their License under Hand ; for which many Soldiers have been executed, Coke's 6 Rep. f. 27. in the Case of Soldiers : And before these Statutes, Thomas Earl of Lancaster was † proclaimed a Traitor by the whole Army, in the Twelfth Year of King Edward II. for departing from the Army at the Siege of Berwick, by Means whereof it was not taken, and the Siege raised.*

Henry de Essex's Case, 2 Hen. II.

Henry de Essex, † Standard-bearer to the Kings of England by Right of Inheritance, was accused of High Treason in the second Year of King Henry II. by Robert de Montford his Kinsman, and vanquished by him in a Duel at Reading, for his cowardly abandoning and throwing down the

* Lambard. Arch. fol. 1, 5. De Heretochiis. † Walsingham Hist. p. 89 Holingshed, Grafton, Stow, Speed, Trussel, in 12 R. 2. † Dan. p. 18. Speed, p. 502. Holin. and Stow, An. 2 H. 2.

Standard Royal in North-Wales, in the Battle against Prince Owen, amidst the Mountains, and flying when assaulted by the Welsh, whereby the King's Army was endanger'd to be routed: Whereupon, though his Life was pardoned, yet his Lands were seized into the King's Hand, and he shut up a Monk in the Abbey of Reading, where he died.

Thomas Katrington's Case, 50 *Edw.* III.

Sir * *John Annesly*, Kt. in the Parliament of 50 *Edw.* 3. (commonly stiled, *The good Parliament*) had accused *Thomas Katrington*, Esq; of Treason, for selling and delivering up the Castle of *St. Saviour's* (built by the Lord *John Chandois*, within the Isle of *Constantine*) to the *French*, for an inestimable Sum of Money, when he wanted neither Means of Defence, nor Victuals: Which Castle, had it not been thus traitorously alienated, had descended to the said Sir *John* in Right of his Wife, being next Heir to the Lord *Chandois*, offering to make good this Accusation, and try it out by Duel: Whereupon the said *Thomas Katrington* was then apprehended and imprisoned; but soon after, by Means of the Duke of *Lancaster* and the Lord *Latimer*, (who then did what they pleased) released, being formerly their Creature in Peace and War, in all Things; neither could the said Sir *John* obtain the Effect of his Suit till the Parliament of 3 *R.* 2. *An.* 1380. some Men affirming, *That it was against the Laws of the Realm for any Man of the Realm to fight such a Duel for such a Cause; many who feared the like Accusation did most of all hinder this Trial; but at last, in this Parliament, the antientest Knights of the Realm being assembled, it was resolved, that for a Foreign Cause, it was lawful for any Man to fight a Duel, if the Cause were certified to the Constable and Marshal of the Realm, and the Duel accepted by the Parties in their Pre-*

* *Walsing. Hist. Ang.* p. 245 to 248.

sence. Whereupon a Day of Battle, and Lists were appointed them in the Court at *Westminster*, where this Duel being solemnly fought on the 7th of *June*, between these two Champions, in the Presence of the King, Nobles, and a Multitude of People; the traiterous Esquire was vanquished by the Knight, to the Joy of the Common People, and to the Grief of Traitors: The Esquire who fainted in the Place, died the next Morning.

Gomeney's and Weston's Case, 1 Rich. II.

In the Parliament Rolls of 1 R. 2. Num. 38, 39, 40. The Record is thus: *Item*, 'Whereas it was prayed by the Commons, that all those who have lost Castles or Towns through the very Default of the Captains, might be put to answer it to this Parliament, and severely punished according to their Desert, by Award of the Lords and Baronage, to eschew the evil Examples which they have given to others who are Governors of Towns and Castles; it was commanded to Sir *Alexander de Buxhall*, Constable of the Tower of *London*, that he should cause to come before the Lords in Parliament at *Westminster*, on *Friday* the 27th of *November*, in the Year aforesaid, Sir *John de Gomeney*, and *William de Weston*, apprehended and detained in the said Tower by the Command of the King, because they had lost and rendred Castles and Towns to the Enemy, to answer thereunto, upon the Articles which shall be surmized against them for the said Cause, on the Behalf of the King. Upon which Day of *Friday* the said *John* and *William*, being brought by the said Constable before the Lords in Parliament, sitting in the White Chamber, they were severally arraigned at the Commandment of the said Lords, by Sir *Richard Lescrop*, Knight, Steward of the House of the King, in Manner as ensueth.

'*William de Weston*, you took upon you from the most Puissant Prince, Sir *Edward* late King of *England*, Grandfather of our Lord the King, that

that now is, safely to keep to him and his Heirs,
 Kings of *England*, the Castle of *Outhrewyk*,
 without surrendring it to any one but to the said
 Grandfather, or to his said Heirs, or by Com-
 mand from him or from his said Heirs: Have
 you, *William*, who are a Liegeman of our Lord
 the King, in Times of the same our Lord the
 King who now is, true Heir to the said Grand-
 father, deliver'd and surrender'd the same to the
 Enemies of our King, without Command from
 him, to the Dishonour of him and his Crown,
 and of the Estate of his Realm of *England*,
 against your Allegiance and Undertaking afore-
 said? What will you say hereunto?

Page 360.

* Whereupon the said *William* said, That he
 had put his Answers in Writing, and produced
 before them a Schedule; the Tenor of which
 is as followeth. *To the most sage Council of our
 Lord the King, and to the other Lords and
 Commons of the Parliament, sheweth William de
 Weston, hath maliciously rendred the Castle of
 Outhrewyk, of which he had the Custody; may
 it please your sage and just Discretion to have the
 said William excused thereof, for these Causes en-
 suing. First of all, may it please you to remem-
 ber, how that the said William was lately in-
 formed by a Spye that a great Power of the Ene-
 mies would come upon him to besiege the said
 Castle, with very great Ordnances; whereupon
 he the said William, required of the said Coun-
 cil, that it would please them to reinforce the said
 Castle with more Men for the Defence and Safe-
 guard thereof, in regard that the Garrison of
 the said Castle that then was, were not half suffi-
 cient in respect of Multitude to resist so great a
 Force, in so large a Place; he could not have any
 Succour from the said Council. And so the said
 William was left without People sufficient for
 to keep and defend the said Castle any long Time,
 which he beseecheth you to take into your just and*

benign Consideration. Also, how upon a Monday about One of the Clock, the Enemy came to besiege the said Castle, to the Number of about 2600 Men of Arms, and 700 Arblasters Genevoves, and with 5000 of the Commonalty of the Country, having nine great Canons, divers Engines, and one * Mortar-piece, greater than ever they had seen any before in those Marches; and the same Hour, presently a great Number of the Men of Arms, and Arblasters aforesaid, came before the Gates for to assail the said Castle; and at this Time a Knight of theirs was slain, who was Cousin to the Lord de Clifson as was reported, and many others were likewise then slain and wrecked; and within a short Time after they began to discharge and shoot with their Ordnances, and other Engines, and so continued their Assault from one Day to another, that is to say, Tuesday, Wednesday, and Thursday, and then were the Walls and Houses of the Castle battered down and bruised; and they had likewise by Force trenched the Ditches of the said Castle in three Places, so as all the Water was drained out; and that Night came a great Party of them, and by Force made an Assault; and the next Day, which was Friday, they came about Day-breaking with all their Forces to assault the said Castle, but with God's Assistance they were yet repulsed with Force from their Assault. And the same Day the Mareschal of Burgoyne sent to the said William and others of the said Castle to render it. Whereupon having Consideration that the said Castle could not be kept, as well in regard of the small Number of the People, as by reason that the Walls in many Places were enfeebled by their Ordnances, there was a Treaty with the Lords to this End, that the said William and his Companions might advise themselves against the next Morning; and so they departed each to their own.' Also this same Night the Enemies

* Trebuchet.

caused all their Ordnances, Engines, Mortar-piece, Canons, and Faggots, with Scaling Ladders, Galleries, and all other Necessaries, to be drawn up near to the very Ditch of the aforesaid Castle; and the next Day, which was Saturday, they made all Things ready plainly for to assault the Place; and they sent an Herald to the said William, to know if the said Castle should be rendred to them or not? Whereupon the said William, by Advice of the wisest of his Companions, by common Assent surrendered the said Castle for to save their Lives and their Goods. Also the said William Weston sheweth, how the first Day when the Enemies came before Arde, that he went in haste to Calais unto the Captain, and desired of him more Succour and Aid of Men for the better guarding of his Fort of Outhrewyk, and to defend it if the Enemies should come thither. And the Captain answer'd him, That he would not deliver, nor give him Aid nor Succour at the said Time, because he doubted that the said Enemies would come before the Town of Calais. And the same Schedule being read in Parliament, immediately after was the said John brought thither by the said Steward in the Manner following.

Page 361.

‘ John Lord of Gomenneys, you took upon you
 ‘ to the most Puissant Prince, Sir Edward late
 ‘ King of England, Grandfather to our Lord the
 ‘ King that now is, safely to keep to him and his
 ‘ Heirs, Kings of England, the Town and Castle
 ‘ of Arde, without surrendring the same to any
 ‘ Person, except to the said Grandfather and his
 ‘ Heirs, or by Commandment of him or of his
 ‘ Heirs. These have you, Lord of Gomenneys, in
 ‘ Time of our Lord the King that now is, Heir to
 ‘ the said Grandfather, deliver’d and surrender’d
 ‘ to the Enemies without Commandment from
 ‘ him, to the Dishonour of him and of his Crown,
 ‘ and of the Estate of the Realm of England:
 ‘ What will you say thereunto? Whereupon the
 ‘ said John answer’d, That the said Town and
 ‘ Castle of Arde were so weak, that he could not
 ‘ well keep them against so great a Power of the
 ‘ Enemies,

Enemies, which was then ready to assail the
 same Town and Castle; and therefore he caused
 to assemble all the Knights, Esquires, and
 others, being in the said Town, and informed
 them of the Perils of the said Town, and Force
 of the said Enemies; and by common Counsel
 and Assent of the said Knights, Esquires, and
 others, he issued out to the Enemies to treat
 with them, for to save the Lieges of the King,
 being within the said Town and Castle of *Arde*;
 without that, that he ever took any Thing for to
 surrender the said Town and Castle of *Arde*.
 Upon which one *Geoffry* of *Argenton* Kt. said
 in full Parliament to the said *John*, that he the
 said *Geoffry* was at that Time in the said Town
 in Company of the said *John*, and that the
 Town and Castle of *Arde* were never deliver'd
 nor surrender'd by his Counsel nor Assent, but
 that he was always ready to die and live up-
 on the Safeguard of the same; and the said
Geoffry offer'd to prove it, if any would deny it.
 And further, it was demanded of the said *John*,
 if he would say any thing else? And he said he
 would not. Whereupon the said Constable was
 charged with the safe Custody of the said *John*
 and *William* until the next Day. At which Day
 of *Saturday*, the 20th of *November* in the Year
 aforesaid, it was shewed unto them severally by
 the said Steward on the same Day, by the Com-
 mandment of the Lords aforesaid, how upon
 the Answers that the said *John* and *William* had
 given in the said Parliament as before, the Lords
 of the said Parliament, that is to say, the King
 of *Castile* and of *Leon*, and Duke of *Lancaster*,
Edmund Earl of *Cambridge*, *Edmund* Earl of
March, *Richard* Earl of *Arundel*, *Thomas* Earl
 of *Warwick*, *Hugh* Earl of *Stafford*, *William*
 Earl of *Suffolk*, *William* Earl of *Salisbury*, *Hen-*
ry Earl of *Northumberland*, *John* Lord *Nevil*,
Roger Lord *Clifford*, and many other Lords,
 Barons, and Bannerets being in the said Parlia-
 ment, who had assembled and advised together
 from the Time that the said Answers were given
 in

in Parliament the *Friday*, until this *Saturday*
at three of the Clock, of Things touching the
Answers aforesaid, and taking thereupon good
and mature Deliberation and due Information
of the most valiant and most discreet Knights
and others, it was thus said. First of all, in
Manner as followeth, to the said *William* by the
Steward: *It seemeth to the Lords aforesaid, that*
you William, who had taken upon you safely to
keep the Castle of Outhrewyk, as before is said,
that you, William, have without any Duress or
Default of Victuals, evilly deliver'd and surren-
der'd the same to the Enemies of the King by
your own Default, against all apparent Right
and Reason, and against your Allegiance and
Undertaking aforesaid: And having by due In-
formation read the Case of the late Baron of
Graystock, who was a Lord, and one of the
Peers of the Realm, who had taken upon him
safely to keep to the aforesaid Grandfather the
Town of Berwick; the said Baron went to
France, and there remained some Time. Du-
ring which Time, an Assault of War was made
upon the said Town of Berwick by the said
Scots, and Robert Ogle, as Lieutenant to the
said Baron, valiantly defended the same; and at
last by such forcible Assaults the said Town was
taken upon the said Robert, and two of the Sons
of the said Robert there slain in the Defence of
the same. Notwithstanding, because that the
said Baron himself had taken upon him the Safe-
guard of the said Town, and departed himself
from thence without Command, and the said
Town of Berwick was lost in the Absence of the
Baron, he being in France, as is aforesaid; It
was adjudged by Advice of the said Grandfather,
the King of Castile, the Nobles, Dukes, and
Counts, Henry late Duke of Lancaster, the late
Earls of Northampton and Stafford, and Sir
Walter de Manny, that the said Town was lost
in Default of the said Baron; and for this Cause
he had Judgment of Life and Member, and that
he should forfeit all that he had: That you,
William,

Page 362.

' William, surrendered the said Castle of Outhre-
 ' wyk to the Enemies of the King aforesaid, with-
 ' out any Dureffs or Want of Victuals, against
 ' your Allegiance and Undertaking aforesaid, the
 ' Lords above-named sitting in Parliament, ad-
 ' judge you to Death, and that you shall be drawn
 ' and hanged. Whereupon it was commanded to
 ' the said Constable safely to keep the said Wil-
 ' liam, until he had other Command from our
 ' Lord the King. And as to the said John Lord
 ' of Gomeney, touching his Answers aforesaid, it
 ' was shewed unto him by the said Steward, how
 ' the said Lords had assembled and consider'd of
 ' the said Answers as afore is said; and more-
 ' over it was shewed to him, how that in the
 ' Time that Sir Ralph de Ferrers Knight had
 ' the Custody of the said Town and Castle of Arde,
 ' the said Town of Arde was not half so strong as
 ' it was at the Time the said John surrendered the
 ' same; and the said Ralph had a Command
 ' from the said Grandfather to surrender the same
 ' for the Feebleness thereof, before that the said
 ' Ralph would put himself into great Peril for the
 ' Safeguard thereof; notwithstanding the said
 ' Ralph valiantly defended and maintained the
 ' same against a very great and strong Assault.
 ' And thereupon, and other Evidences touching
 ' the Answers of the said John in his Behalf, it
 ' was said in manner as followeth, That it seemed
 ' to the Lords aforesaid sitting in Parliament,
 ' considering your Answers in this Behalf, and
 ' the Examinations and Informations had there-
 ' upon, and that there were lately sent unto you
 ' to the said Town and Castle of Arde, above the
 ' number of Men with which you had at another
 ' Time undertaken the Safe-guarding of the said
 ' Town and Castle, twenty Men of Arms, and
 ' twenty Archers to enforce the same, according to
 ' your Request then made to certain Lords; and
 ' that at that Time it was said unto you by the
 ' King of Castile, who is here present, that if
 ' you could not well keep them, you ought in no
 ' manner to undertake the same, and that another
 ' should

' should keep them, who would take upon him
 ' safely to keep the same to the said Grandfather
 ' and his Heirs aforesaid; and thereupon you un-
 ' dertook to keep them safely without surrendring
 ' them to any, except in Manner as aforesaid;
 ' and now you, John, without Duress or Default
 ' of Victuals or Artillery, or of other Things ne-
 ' cessary for the Defence of the said Town and
 ' Castle of Arde, without Command of the King,
 ' have evilly delivered and rendred the same to
 ' the Enemies of the King, by your own Default,
 ' against all Appearance of Right or Reason, and
 ' against your Undertaking aforesaid; wherefore
 ' the Lords aforesaid, here in full Parliament,
 ' adjudge you to Death; and because that you are
 ' a Gentleman and a * Baronet, and have served • Banneret.
 ' the said Grandfather in his Wars, and are no
 ' Liegeman of our Lord the King, you shall be
 ' Beheaded without having other Judgmen; and
 ' the Execution thereof shall be put in Respite,
 ' until our Lord the King be informed thereof *.'

Cressingham and Spikesworth's Case, 7 Rich. II.

In the Parliament Rolls of 7 R. 2. Num. 17.
 there is this Case, ' Item, Upon the Complaint
 ' which hath been made to the King, of Pierce
 ' de Cressingham and John de Spikesworth Esqs;
 ' concerning this, That whereas they were made
 ' in the said Voyage (to wit, of the Bishop of
 ' Norwich into Flanders with an Army) Captains
 ' and Guardians of the Castle of Drinkham in
 ' Flanders, which was gained from the Enemies,
 ' and after that well and sufficiently stored with
 ' Victuals and other Necessaries, and strong enough
 ' to be held against the Enemies, that they left
 ' and rendred the said Castle to the said Enemies,
 ' receiving of them for this Delivery and Surren-

* Geoffrey Martin, Clerk of the Crown, made this very Record, and delivered it written in this present Roll, with his own Hand.

der, by Treaties made with the Enemies, a
 Sum of Gold, and that by Covenant made with
 the King's Enemies, without the Command of
 the King himself, or of his Lieutenant; for
 which the said Esquires were arrested by Com-
 mand of the King, and after put to their An-
 swer in Parliament. And the said *John Spikes-*
worth excused himself before the King in Par-
 liament in this Manner, *That he had never the*
Custody of the said Castle, nor any thing to do
therewith, save only that as he was riding into
the Country, somewhat near the said Castle of
Drinkham, to make his best Advantage upon the
Enemy, by Force of the said Enemies he was
there chased to the said Castle, then being in the
Custody of the said Pierce de Cressingham; and,
That upon an Assault made to the Barbican
there, by the Enemies, he was unhappily routed,
and one of his Varlets slain in the Garrison very
near him, where he remained continually until
the said Pierce rendred the same, and he had
never any Thing there to do, neither as a Soldier,
nor in any other Manner whatsoever; praying,
that therefore it would please the King to have
him excused. To whom it was answer'd, that if
 any Man knoweth no more against the said *John*,
 contrary to his said Answer, that the King will
 hold him excused, and wills that he shall be dis-
 arrested, and suffered to go at large. And the
 said *Pierce of Cressingham* well knowing that he
 had the Guard of the said Castle, said, That as
 soon as the Enemies were come before *Burburgh*,
 in which were the Lord *Beaumont*, Sir *William*
 of *Elingham*, Sir *Thomas Tryvet*, Sir *William*
Farrinden, and many other *Englishmen*, and
 the Town and Castle of *Burburgh* being surren-
 dred to the Enemy, of all the Soldiers which
 he had with him at *Drinkham*, none would
 there continue with him upon the Safeguard of
 the said Castle, but only five Persons in all; by
 reason of which great Necessity he was forced,
 in Safeguard of his own Person and his People,
 to make a Treaty with the Enemies, for to de-
 liver

‘ liver up the said Fort, and thereupon he did it,
 ‘ but only by Constraint of the Power of the said
 ‘ Enemy. And that he never received any Thing Page 363.
 ‘ from the said Enemies by Way of Gift, or in
 ‘ any other Manner; whereupon he conceiveth,
 ‘ that no Man ought to impute any Manner of
 ‘ Blame unto his Person. But if it shall be
 ‘ thought that he hath done ill in any Manner, he
 ‘ puts himself most humbly into the Grace of his
 ‘ Liege Lord. And because that this Excuse
 ‘ seemed not at all to be sufficient, he was com-
 ‘ mitted to Prison.’

The Case of the Bishop of Norwich, 7 Ric. II.

In the same Parliament of 7 Ric. 2. Num. 22.
 The Bishop of *Norwich*, General of the Forces,
 sent over into *Flanders*, having four Articles ex-
 hibited against him in this Parliament, touching
 that Expedition, and the Surrendring of *Graveling*
 to the Enemy, to which he had given some
 former Answer, (see Num. 15, 17, 20, 21.) upon
 his second Arraignment had this Proceeding. ‘ At
 ‘ which Day the said Bishop rehearsing the four
 ‘ Articles surmised against him formerly in Parlia-
 ‘ ment, and in Prefence of the King himself, gave
 ‘ his Answers, that the Time when he heard the
 ‘ News that the Vanguard of the Host of *France*
 ‘ was entered the Country of *Flanders*, and that
 ‘ thereupon the said Siege of *Ipre* was removed,
 ‘ he took a Resolution to have encountered the
 ‘ Vanguard, to have fought with them; which
 ‘ Purpose of his he could not perform by Reason
 ‘ that the Captains of his Host would not assent
 ‘ thereunto; and thereupon the said Bishop re-
 ‘ turned to the Town of *Graveling*; and the same
 ‘ would he have held out well against all Men,
 ‘ and did hold out until the other Captains had
 ‘ rendered their Forts to the *French*; and after
 ‘ that, until that some *English* might come unto
 ‘ him, although there were Six or seven thousand
 ‘ *English* lying upon the Sands near *Calais*, who
 ‘ were made to come out of the said Forts ren-
 ‘ dered,

' dered, to their great Mischief and Prejudice,
 ' because they had not wherewith to live, neither
 ' could they have Entrance into the Town of
 ' *Calais*. And forasmuch as the Truce made be-
 ' fore that Time ought to cease within two or
 ' three Days then next ensuing, the *French* had a
 ' Purpose to slay them all, as soon as the said
 ' Truce was ended; which Slaughter, if it had
 ' been made, would principally have turned upon
 ' the said Bishop, and after on the other Captains.
 ' The Bishop was thereupon required and char-
 ' ged on the Behalf of the King, that he should
 ' render the Town to the Enemies, or else de-
 ' molish it, and go his Way to succour the said
 ' People, and after that towards *England*, in Sal-
 ' vation of himself and others; for they said,
 ' that if any Thing else but Good had happen'd
 ' to the said People, lying on the Sands, they
 ' would have truly called the said Bishop to an
 ' Account before the King: Whereupon it beho-
 ' ved him the said * Bishop to abate and void the
 ' said Town of *Graveling*, as it was lawful for
 ' him to do at his Pleasure, being gained by his
 ' proper Conquest from the Enemy. And for
 ' this, and for the other Reasons formerly alledg-
 ' ed by him, as also because that a Letter from
 ' the King came to him before, commanding
 ' him, that if there were great Want of Victuals
 ' in the said Town, as in Verity there was, that
 ' then in Salvation of himself, and of the said
 ' People, he should void the Town and succour
 ' the said People, and after return into *England*;
 ' it seems to him, that he ought to be well ex-
 ' cused of whatever is surmised against him.' To
 ' which the said † Chancellor replied: ' Master
 ' Bishop, as to this your last Reason, it is true
 ' that you had sufficient Victual when this Letter
 ' came unto you; and besides this, the King sent
 ' you other Victuals in great Plenty; and also

* See the History of this Treaty and Abatement of the Town in
 Walsingham Hist. Angl. p. 327 to 330. and in Holinshed,
 Speed, Grafton. † Num. 27.

' with it other good Letters, containing, how he
 ' had appointed his Uncle of *Spain* to come spee-
 ' dily to you for your Aid and Succour; and all
 ' this notwithstanding, you departed thence, lea-
 ' ving the said Town to the Enemies, against the
 ' Form of your Indenture, by the which the King
 ' hath given and granted you whatever you might
 ' conquer, not at all to render, sell or leave the
 ' same to the Enemy. And also to that which you
 ' have said in your first Answer, that by your said
 ' Voyage Truces had been agreed between the
 ' Realms, and happy Offers of Peace made by the
 ' Adversaries of *France*, which you say shall be
 ' an Introduction to a good and final Peace, it
 ' contains no Truth at all: For true it is, that
 ' the News spread in the Army of *France* of the
 ' Coming of the King, and of Monsieur of *Lan-*
 ' *caster*, who was at the Sea-side ready to pass
 ' for your Succour, was the principal Cause of the
 ' Truce and Profers aforesaid, and of the Treaty
 ' to be commenced; for 'tis not probable that
 ' you who were with your People chased by Force
 ' of the Enemies out of the Field, and afterwards
 ' besieged by them within your Fortresses, should
 ' be the Cause of the said Treaty by any way.
 ' And altho' the King our Lord might clearly
 ' judge you as a temporal Person of his Realm, Page 364.
 ' because you have behaved and carried yourself
 ' as a temporal Person; for you obliged yourself
 ' to the King our Lord by your Indentures, to be
 ' a Soldier of the King, and you used commonly
 ' to have your Sword carried before you; and
 ' you did many other such like Things every
 ' Day publickly as a Lord Temporal, against the
 ' common Custom of the Estate of a Prelate of
 ' *England*: Notwithstanding, by Reason of your
 ' Estate, the King our Lord will forbear for the
 ' present to lay his Hands upon your Body. But
 ' as he is informed, that you yourself have com-
 ' plained to many Lords of the Realm, that
 ' Wrong hath been lately done you on the last
 ' Day, affirming that which was done passed not
 ' at all by Assent or Knowledge of your Peers of
 ' the

' the Realm, this is greatly to be marvelled of
 ' you, and of these your Words, seeing the ill
 ' Success toucheth nothing at all your Peerality,
 ' but only certain Misprisions which you have
 ' made and perpetrated as a Soldier of the King,
 ' against the Form of your Indentures and Cove-
 ' nants which you have made with the King our
 ' Lord, whereof the Connifance and Punishment,
 ' of common Right and antient Custom of the
 ' Realm of *England*, only and totally appertain-
 ' eth to our Lord the King. And true it is, that
 ' you have not at all by this your last Answer
 ' amended your Matter in Excuse of yourself,
 ' upon the Things surmised against you, but, as it
 ' seems, have more greatly impaired the same.
 ' Wherefore by the Assent of the Earls, Barons,
 ' and other Lords temporal present in this Par-
 ' liament, it is assented and accorded, that you
 ' shall be in the Mercy of the King, and put to a
 ' Fine and Ransom for your Misdoing, according
 ' to the Quality and Quantity thereof. And to
 ' do this you shall be compelled and constrained by
 ' the Seisure of the Temporalities of the Bishoprick
 ' of *Norwich*. And the King commands you,
 ' that from henceforth you shall not cause nor suf-
 ' fer any Sword to be carried before you, as it
 ' hath been done, under the Peril which shall fol-
 ' low. And that whatsoever hath been expended
 ' on your Use of the said Franks of Gold, you
 ' shall make full Payment thereof in the Treasury
 ' of our Lord the King, without Delay.

Upon this Judgment the Temporalities of this
 Bishop were immediately seized into the King's
 Hands, and detained in them a long Time for this
 his Surrender of *Graveling*; as *Walsingham*, *Hol-
 inshead*, *Grafton*, *Speed*, *Trussel*, in their Histo-
 ries, and *Godwin* (in the Life of this Bishop) at-
 test.

The Earl of Northumberland's Case, 7 Ric. II.

In the same * Parliament, 7 R. 2. News came from the Northern Parts, that the Castle of *Berwick* was taken by the *Scots*, whose Custody *Henry Percy* Earl of *Northumberland* then possessed by antient Right; the *Scots*, for Money, fraudulently getting Entrance into the said Castle by one who had the Custody of it at the second-hand, under the Earl. Hereupon, by Duke *John's* Procurement, (as was reported) the said Earl on the fourth of *December*, for the Loss of the said Royal Castle, by the Judgment of the Lords, and of the King then present in the said Parliament, had a Sentence of Condemnation publickly pronounced against him, notwithstanding that the said Earl had been summoned to the said Parliament by the King's Writ, and would rather have tarried at home for the Defence of his Country. But the Execution of the said Sentence was soon after released by the King, and the Earl by his Indulgence restored to his Life and Possessions, which he was adjudged to lose. Whereupon he posted into the North, and calling his Forces together, strongly besieged the said Castle, and in few Days took it by Composition, he giving the Besieged their Lives, Movables, and Two thousand Marks to surrender it.

The Case of Sir William de Elmham, and others, 7 Ric. II.

In the Parliament-Rolls of 7 Rich. 2. num. 24. there is this Record. *Item, Sir William de Elmham, Sir Thomas Tryvet, Sir Henry de Ferriers, and Sir William de Farndon* Knights, and *Robert Fitz-Ralph, Esq;* who by the said Charge formerly given in Parliament, had been with the Chancellor, and acknowledged and confessed to

* Walsing. Hist. Angl. p. 337.

Cases *and* Records *relating to* Cowardice.

him, How that they had received certain Sums of Franks of Gold of the *French*, in lawful and due Manner, and not otherwise. To which they said, ' First of all, that is to say, the said Sir *William* ' of *Elmham*, *Thomas Tryvet* and *William Farn-* ' *don*, in one Parcel Three thousand Franks of ' Gold. *Item*, In another Parcel, &c. *Item*, the ' said Sir *William Elmham* received another Par- ' cel of the *French* for the Castle of *Burburgh*, ' whereof Master *William de Hoo* was then Cap- ' tain, and for the Victuals of the said Master ' *William de Hoo*, being in the said Castle of *Bur-* ' *burgh*, Two thousand Franks, whereof the said ' *William de Elmham* presently paid, as he said, ' One thousand Franks to the said Master *William* ' *de Hoo*, and the other thousand Franks he pro- ' mised to pay at a certain Term to the same ' Master *William de Hoo*, &c. *Item*, There is ' another great Misprision, that some Lieges of ' the King rendered and delivered to the said E- ' nemies of the King, Castles, Fortresses, Vic- ' tual, Armour and other Refreshment, without ' special Command and Authority of the King, ' or of his Lieutenant. And, Sirs, you know ' well, and cannot deny, That by certain Cove- ' nants, made between the said *French* Enemies ' and you, the said Sir *William de Elmham*, *Tho-* ' *mas Tryvet*, *Henry de Ferriers*, and *William de* ' *Farnon*, and others, of which there are cer- ' tain Indentures made and sealed, you lately ' made a Treaty with the said Enemies, with- ' out the Will or Authority of the King, or of his ' Lieutenant; and by this Treaty, and your Sale ' of the said Forts, Victuals and Arms, you re- ' ceived the said Sums of Gold; and by this, ' and by other your Affairs, and Rebellions made ' to your General, the said Host was spoiled and ' destroyed, to the grievous Damage, Villany, ' and Contempt of the King our Lord, and very ' great Profit and Comfort of the said Enemies, ' for which you are worthy to undergo Reproach ' and grievous Punishment. For you Sir *William* ' *de Elmham*, received of the said Enemies, the ' said

said Two thousand Franks, for the Sale and Sur-
 render of the said Castle of *Burburgh*, and of
 the Victuals, Arms, and other Goods therein,
 then being to a great Number and Value, with-
 out the Leave and Authority of the King our
 Lord, and the Consent of the said Master *Wil-*
liam de Hoo, Captain of the same, *altho' that*
the said Castle was well able to have held out for
a long Time against all Men. And also you the
 said *William de Elmham*, *Thomas Tryvet*, and
William de Farndon, received to your proper
 Use in common the said Three thousand Franks
 of the Gift of the said Enemies, for your Con-
 sent and Aid to the said Treaty, made upon the
 Voidance of the *English* out of that Country,
 and the Deliverance of the Town of *Graveling*,
 and of the other Fortresses then occupied in
 those Parts, &c. And you the said *Sir William*
Farndon are in another very great Default, be-
 cause you would not carry back to the said Ene-
 mies the Five thousand Franks by you left at
Graveling, against the Will and Command of
 the said Bishop your Chieftain, &c. And the
 said *Sir William de Elmham* saith, That altho'
 he hath so received the Sums aforesaid, yet it
 was done for Victuals, Prisoners, and other
 Goods which he had within the Fortress of
Burburgh, and elsewhere in those Parts, and
 which with the same Fortress he rendred by the
 said Treaty; for otherwise the Town of *Bur-*
burgh, where the Lord *Beaumont*, *Sir Thomas*
Tryvet, *Sir William Tryvet*, *Sir William de*
Elmham, and a great Number of the People of
 their Army were besieged, and assaulted by the
 Enemies in very great Number, and the Town
 within set on fire, had been taken by them by
 Force, and all those within it taken or slain:
 But notwithstanding, if it appears to the King
 our Lord that he hath done any Thing amiss,
 he puts himself upon his noble Grace, &c.
 And the said Chancellor, in replying to the said
Sir William de Farndon, *Henry*, and *Robert*,
 saith, &c. And certainly, as to this which you

Cases and Records relating to Cowardice.

‘ Sir *William de Farndon* say, That it had been
 ‘ better to cast the said Gold into the Sea, than
 ‘ to have sent it back to the said Enemies; this
 ‘ is not true; for it had been better that the E-
 ‘ nemies had received their own Gold, than any
 ‘ Traitor of the King our Lord: And he who
 ‘ shall hereafter sell the Fortresses of the King to
 ‘ the Enemies, for Gold or other Goods, may
 ‘ excuse himself in such Manner as you would
 ‘ now excuse yourself. And after these Matters,
 ‘ thus by the same Persons alledged for their Ex-
 ‘ cuse, *being considered and held and adjudged in-*
 ‘ *sufficient for their Excuse in this Behalf*; the
 ‘ said Chancellor, in Behalf of the King, spake
 ‘ thus, *It is accorded in Parliament, that you Sir*
 ‘ *William de Elmham, Thomas Tryvet, Henry*
 ‘ *Ferriers, William de Farndon, and Robert Fitz-*
 ‘ *Rauf, shall make Agreement and full Payment*
 ‘ *to our Lord the King of whatsoever you or any*
 ‘ *of you have so received and taken of the Ene-*
 ‘ *mies aforesaid; and further, that all you the*
 ‘ *said Sir William de Elmham, Thomas, Henry,*
 ‘ *and Robert, be committed to Prison, and there*
 ‘ *ransomed at the Will of the King for your Mis-*
 ‘ *deeds aforesaid. And that you, Sir William de*
 ‘ *Farndon, because that you have received of the*
 ‘ *said Enemies divers Sums of Gold, and have gi-*
 ‘ *ven them Horses to their great Refreshment, for*
 ‘ *which you had no License of the King, nor of*
 ‘ *his Lieutenant, shall be in the Mercy of the*
 ‘ *King, Body and Goods, to do with them what*
 ‘ *he pleaseth.*’

The Duke of Suffolk's Case, 28 Hen. VI.

In the Parliament of 28 Henry 6. Rot. 50, 51,
 52. the Commons preferred divers Articles of
 High Treason to the King and Lords against the
 Duke of Suffolk, among others these ensuing, *That*
he being Ambassador for the King of England to
Charles, calling himself French King, promised to
Reynor King of Sicily, and to Charles Dangers his
Brother, Enemies to the King, the Release of
Angeou,

Angeou, with the Deliverance of the County of Main, and the City of Mault or Mauns; which Promise, after his Return, he caused to be performed, to the King's Disinheritance and Loss irrecoverable, and to the Strengthening of his Enemies, and Feeblishment of the Dutchy of Normandy. To the which Article he answered, That his Commission was, to conclude and do all Things, according to his Discretion, for the obtaining of a Peace; and because without Delivery of those Countries he perceived the Truce could not be obtained, he agreed to the Release and Deliverance of them.

Item, The said Duke, within this your Realm, hath untruly counselled you to grant from you, without due Consideration, the Castle of Mawlyon de Sool.

Item, The said Duke of Suffolk, without Deliberation and Advice of your Council, hath caused your Highness to grant to divers Persons, many Captains, Offices, Towns, Lordships, Places, Interests, Profits and Revenues within your Realm of France, and Dutchy of Normandy, to such Persons as were not to you profitable, nor ever had deserved to obtain of your Grace any such Grant; which hath been done by him for his great Avail and Lucre, and hath been one of the greatest Means of the Loss of the said Realm of France, and Dutchy of Normandy.

The Duke upon these Articles was committed to the Tower for one Month's Space, to pacify the People, and then released by the Queen's Means, who entirely loved him: Whereupon the Commons were so far from being pacified, that they were more enraged; openly denouncing, that it was a Shame to all the whole Realm to see such a Person, guilty of so many Misdeeds, either to rule about a Prince, or to be had in Honour, or suffered to go unpunished. Upon this the Commons rising up in divers Places of the Realm in Companies under Captain Blewbeard, the Commons in Parliament earnestly beseeched the King, that such a Person as assented to the Release of Angeou,

Page 366.

and Deliverance of France, &c. might be extremely punished and tormented; and to be privy to this Fact, they accused as Principal the said Duke of Suffolk, with John Bishop of Salisbury, Sir James Fines, Lord Say, and others. Whereupon, the King plainly seeing, that neither Glossing would save, nor Dissimulation appease the continual Clamor of the importunate Commons against the Queen's Darling and his Complices; First, he sequestred the Lord Say, being Treasurer of England, from his Office, (who for the same Offence was after committed to the Tower, and after that beheaded by Jack Cade, and the Kentish Mutineers, at the Standard in Cheapside, who carried his Head about the Streets of London fixed on a Pole, &c.) And then by his own Authority, assembling all his Lords Spiritual and Temporal together, on the 17th Day of March, in a Chamber over the Cloysters at Westminster, he arraigned and banished the said Duke for five Years, against the Lords and Commons Consent, who would have capitally proceeded against him; meaning by this Exile, to appease the present furious Rage of the People, and that pacified, to recal him to his old Estate, as the Queen's chief Friend and Counsellor. But Fortune would not that he should so escape; for when he was shipped in Suffolk, intending to be transported into France, he was encounter'd by a Ship of War, appertaining to the Duke of Exeter, of which the Constable of the Tower of London was Captain, who entering the Duke's Ship with small Fight brought him to Dover Road, and there on the Side of a Cock-boat cut off his Head as a Traitor, and left his Body and Head upon the Sands. Such was the End of these two ill Counsellors, only for advising this weak King himself thus dishonourably and cowardly to surrender up these Towns, Forts, and Territories in France, to his Enemies.

The

The Lord Wentworth's Case, 1 Eliz.

The Lord *Wentworth*, Governor of *Calais*, delivering up that Town to the *French*, (after they had taken the Castle by Force, made a Breach in the Town-Walls, and slain above fourscore of the Garrison at one Assault when they took the Castle, together with Sir *Anthony Ager*, Marshal of the Town, and his Son and Heir) and that upon dishonourable Terms, not without some Suspicion of Treachery; he was thereupon indicted in Queen *Mary's* Days for his cowardly and treacherous Surrender of this Town, contrary to his Trust; and after that was arraigned at *Westminster*, in the first Year of Queen *Elizabeth*, the Marquis of *Northampton* being his Judge, and Lord Chief Steward of *England* for that Day. But that Nobleman so nobly defended himself, that he was acquitted by his Peers.

Van Hemert's Case, 29 Eliz.

Meteranus *, *Grimstone* †, *Thuanus*, and others, relate, Anno 1587. 'That Van Hemert, a brave
' young Nobleman, one of the chief Houses of the
' Netherlands, and Governor of the Town of
' Grave, together with two of his Captains, Du
' Banck and Korfe, were imprisoned, condemned
' by a Council of War, and then beheaded and
' executed at Bommel, by Command of Robert
' Dudley Earl of Leicester (Governor of the
' Low-Countries under Queen Elizabeth of fa-
' mous Memory) for that they surrendered the said
' Town of Grave to the Prince of Parma, when
' he had besieged it above three Months space,
' with a puissant Army, and beaten down the
' Walls of it level to the Ground, with perpetual
' Batteries and Assaults: And altho' there appear-
' ed no Treachery at all, nor any Intelligence held

* Belgica Hist. Universalis, l. 13. p. 402, 403, 404.
827, 828.

† Pag.

' with the Enemy, in this Case; and that the Go-
 ' vernor condescended to a Treaty, and surrendered
 ' the Town to the Enemy only upon the Citizens
 ' Importunity, who earnestly intreated him upon
 ' their Knees, with Tears in their Eyes, to em-
 ' brace a Parley, for the saving of their Lives,
 ' Estates, and Liberties, which were granted
 ' them upon the Articles of Agreement; and al-
 ' tho' the Garrison Soldiers likewise marched away
 ' with their Arms (which they left behind them
 ' at Bristol) and had all the Articles punctually
 ' fulfilled; and altho' himself and his Friends ear-
 ' nestly besought the Earl of Leicester, that he
 ' might serve the Queen of England either by Sea
 ' or Land at his own Charges, and by his Valour
 ' and Fidelity make Recompence of his Fault, com-
 ' mitted only thro' Want of Understanding and
 ' martial Policy, contrary to the Will and Intent
 ' of the Earl then Governor General under the
 ' Queen, yet the Earl, for upholding martial
 ' Discipline, and to prevent all future Surrenders
 ' of this Kind, would no wise dispense with the
 ' Execution; whereupon they were all three be-
 ' headed at Bommel, June 28. 1587.'

Page 367.

*The TRIAL of JOHN GERHARD,
 PETER VOWELL, and SOMERSET
 FOX, before the High Court of Justice,
 for High Treason, in conspiring to mur-
 der the Lord Protector the 30th of
 June, 1654, 6 Car. II.*

THIS is the poorest Piece that ever had
 Admission into a Collection of State Trials;
 but as the Editors of the Folio Edition have in-
 serted it as a Trial, I could not avoid giving the
 Substance of it here.

The High Court of Justice, of which ---- Lisle
 was President at this Time, being assembled in
 the Painted Chamber, Mr. Bond (one of their
 Preachers

Preachers, I presume) prayed with them half an Hour ; after which they adjourned to the Court of Chancery in *Westminster-Hall*, which was fitted up for their Reception: Serjeant *Glyn*, Mr. *Prideaux*, and Mr. *Ellis*, were Counsel for the Commonwealth ; and Mr. *Phelps* was Clerk to the Court.

The Ordinance which authorized the Court to try the Prisoners, being read, *Somerset Fox* was first set to the Bar, and the Indictment read, which set forth, That the Prisoner, with some others, had conspired to murder the Protector and several of his Council, to proclaim *Charles Stuart* King, to seize the Protector's Guards and Troops, and to involve the Nation in a Bloody War, &c. To which the said *Fox* pleaded Guilty. Then Mr. *John Gerhard*, and Mr. *Peter Vowel*, were brought to the Bar, and an Indictment for High Treason was likewise read against them of the like Tenor as the former : To which they pleaded *Not Guilty*. But Mr. *Vowel* insisted that he ought to be tried by a Jury of his Equals, according to the Statute of *Magna Charta*, confirmed by the Protector in the sixth Article of Government.

The President answered, That the Members of the Court were his Peers, his Equals, and not his Superiors ; and that they were almost twice the Number of an ordinary Jury, and proceeded by Virtue of the Ordinance that had been read ; and Serjeant *Glyn* added, That he had acknowledged the Jurisdiction of the Court by pleading *Not Guilty*.

Mr. *Prideaux*, Attorney General, opened the Indictment, and the Evidence ; he said, That the Plot was first laid in *England* by Mr. *Hinsbarw*, one of the principal Conspirators, and others ; That Mr. *Hinsbarw* went over to *France* to acquaint *Charles Stuart*, whom they called their King, with it ; That Mr. *John Gerhard* about the same Time went over to *France*, having told Mr. *Hinsbarw*, that he would do nothing in it till he had the Approbation of *Charles Stuart*, and that Mr. *Wiseman* was then in *France* with them ; That

Attorney General opens the Indictment and the Evidence.

That they made their Design known to Prince *Rupert*, desiring him to communicate it to him they called their King, which he did, and brought Mr. *Hinsbarw* to him, but that *Charles Stuart* did not approve of the Design for three Reasons: 1. That it would be dishonourable to him among other Princes, to endeavour to come in this Way in case the Design should be defeated. 2. That it did not seem feazible: And 3. That it was not rightly timed; That Prince *Rupert*, however, encouraged them, and promised them all Assistance; That Mr. *Hinsbarw* and Mr. *Wiseman* thereupon returned to *England*, and Mr. *Gerhard*, some Weeks after, and Mr. *Hinsbarw* declared to the Confederates in *England*, what Overtures had been made to *Charles Stuart*, and that Prince *Rupert* had engaged to send over Ten thousand *English*, *Scots* and *French*, and the Duke of *York* would come with them, and Land in *Sussex*, and that there would be Forces enough ready to join them; That Mr. *Hudson* the Minister, was thought on to have Letters of Credence from *Charles Stuart*, and received a Letter from him; and that *Hudson* desired, in Case the Plot succeeded, to be Master of *Sutton's* Hospital, which Mr. *Hinsbarw* promised him; That one *Philips*, and others were also consulted about it, and it was agreed to seize the Lord Protector, and murder him as he went to *Hampton-Court*, which he used to do every *Saturday* with a slender Guard; That Mr. *Hinsbarw* and Mr. *John Gerhard*, with Thirty Horse, were to effect it, of which, Mr. *Gerhard* was to bring Twenty-five, and Mr. *Hinsbarw* the other Five, and Mr. *Gerhard* was cautious in declaring whom he had engaged, till they had taken an Oath of Secrecy: Mr. *Hinsbarw's* five were himself, Mr. *Tuedore* the Apothecary, Mr. *Wiseman*, Colonel *Aldridge*, and another; That if this was prevented, they were to seize the *Tower* and all the Guards about *Westminster*, which it was thought Two thousand five hundred Men might effect: That to accomplish this, Mr. *Hinsbarw*, Mr. *Gerhard*, and others, went to view the *Meuse*, and observed

observed what a slender Guard there was; and they proposed, when the Regiments of Foot that were for the Guard of *London* and the Suburbs, were mustering in *Tuttlefields*, as they used to do, and had laid down their Arms, to have had a Party there to have seized them.

That Colonel *Finch* was to fall into the City with 200 Men, Major *John Gerhard* was to seize *Whitehall*, Colonel *Hinsbarw* was to march to the *Meuse*, Colonel *Daniel*, with two hundred more was to fall on St. *James's*, one *Billingsley*, a Butcher in *Smithfield*, was to march to *Islington*, and another Party to *Southwark*: That they engaged as many Soldiers as they could in the Conspiracy, and the Papists, who had a great Hand in the Design, engaged two Popish Soldiers for them, who were sent to Mr. *Hudson's* House, which Mr. *Hinsbarw* and other Conspirators frequented; That Mr. *Vowel* was cautious, being a solid Man, and tho' he was not to bear Arms, he was to assist with his Advice, and that he engaged *Billingsley* the Butcher to seize the Protector's Horse at *Islington*, and recommended him as a very fit Man for that Purpose.

That they intended to turn the Plot upon the Protector, and render him odious to the People; for in a Libel dispersed about *London*, they suggested that he had a Design to Massacre all the Royalists in *England*; That this Libel was written by Mr. *Hensbarw*, and *Vowel* had one of them by him: That after some of the Conspirators were apprehended, *Vowel* declared at Mr. *Hudson's* House, That the Design might still be effected, notwithstanding some of them were discovered. That one *Wharton* was to have proclaimed *Charles Stuart* in *Black Friars*, and Colonel *Finch* was to seize the Lord Mayor, and force him to proclaim him; That *Somerset Fox*, and others, were to have raised the Apprentices, but the Protector's going by Water defeated the Design. Then the Witnesses against the Prisoners were called, and first

John

John Wiseman was sworn.

Wiseman's Evidence.

Wiseman deposed, That he was over in *France* with *Mr. Henshaw*, who communicated the Design to *Charles Stuart*, by *Prince Rupert*, as had been opened; That he saw *Mr. John Gerhard* often with *Mr. Henshaw* in *France*; and in *England* he told him there was a Plot to fall on the Protector, and bring in *Charles Stuart* to be King, as related above, and that he afterwards met *Mr. Henshaw* and *Mr. Gerhard*, and they went to view *St. James's*, the *Meuse*, *Whitehall*, and other Places. Here *Mr. Gerhard* interrupted the Witness, saying, How should this be done with a Company of Geese?

Mr. Wiseman proceeded in his Evidence, and said, That *Mr. Gerhard* talked of falling on the Protector at *Mr. Hudson's House*, and that such and such Times would be seasonable; That another Time he heard *Mr. Gerhard* say, he was to Command that Party, and had a Pistol that would Discharge three several Times; That there were to be about 30 Persons to fall on the Protector, his Brother *Henshaw* was to bring five, and himself five and twenty, and named the Five afore-said, which his Brother *Henshaw* was to bring; and *Henshaw* told him, that *Mr. Gerhard* was to surprize the Protector's Person.

That when the Plot was discovered he heard *Henshaw* say, that they that were taken were of *Gerhard's Party*, and none of his, and that a Libel was printed to turn the Plot on the Protector, as above, and that *Henshaw* and *Vowel* had some of the Papers.

That on *Wednesday* after the Plot was discovered, going to drink at the *King's Head* at *Islington* with *Henshaw* and *Vowel*, *Henshaw* said, The Business might go on for all it was discovered, many Regiments being ready to rise, enough to carry on the Work.

Mr. Ed-

Mr. *Edward Hudson*, a Blind Minister of *Islington*, sworn.

He deposed, That Mr. *Hinsbarw* desired him to write two or three Words to the Scots King, and related the whole Design to him, with the three Objections made by *Charles Stuart*, and Prince *Rupert's* Answer, and the Ways to effect it, agreeing with the Evidence, as it was opened above. Hudson's Evidence.

He said further, That Mr. *Vowel* was his intimate Friend, had relieved him and preserved him from perishing; That *Hinsbarw* endeavoured to engage *Vowel*, but he answered, he thought himself unfit, he did not relish it; what Mr. *Hinsbarw* and he agreed he knew not, what he heard was from *Hinsbarw*, whom he met accidentally; he suspected *Vowel* acted, but was not sure of it; That *Vowel* said, He would engage a Friend in it if he could, he was himself unfit, and that a great many Horse might be surprized at *Islington*; he would try what he could do; but whether he did any Thing he knew not.

Colonel *Goff*, a Justice of Peace, sworn.

He deposed, That the Examination produced in Court was taken from Mr. *Hudson's* Mouth, read over to him, and acknowledged upon his Oath, and that it was done freely and not extorted from him. *Hudson* answered, That he was pressed, and said these Words: *Do not thus afflict an old distressed Man, that hath nothing but Afflictions.* To which *Goff* replied, That at first Mr. *Hudson* denied all, but that hearing another had made a full Confession of the Plot, he desired to be heard again, and freely confessed what was contained in the Examination, which was agreeable to the Particulars already mentioned: And further, That *Hinsbarw* said there were many Cavaliers in Town that were in the Plot, but he would never speak to two together; That they would place Major General *Brown* at the Head of them, Goff's Evidence.

them, and procure a Letter from *Charles Stuart*, to engage him to accept it, he being a Friend to the King, as they called him ; That Mr. *Vowel* consented to do something, and met them six Times at Mr. *Hudson's* House in *Islington* ; That *Vowel* engaged *Billingsley*, who said it would be easy to seize the Horses at Grass at *Islington* ; (the Troopers Horses were at Grass there) That the Forces Prince *Rupert* was to send over, were to land at *Rye* and other Places in *Sussex*.

Then the Lord President demanded of *Hudson*, whether he owned these Things ; who answered, there were such Things spoken, but how far *Vowel* consented he knew not.

Mr. *Robert Dale* sworn.

Dale's Evidence.

He deposed, That Mr. *Vowel* came to his House, and asked him what Arms he had, and being answered two Pistols, *Vowel* said he would buy them ; then he demanded for what Use, and *Vowel* said, he would tell him hereafter ; That *Vowel* came with *Hinsbaw* and *Wiseman* several Times to his House, and talked over the Design against the Lord Protector, agreeable to the Evidence already given ; That Sir *Gilbert Pickering*, Mr. *Strickland*, and two or three more of the Council that were named, were to be cut off ; That they would have engaged the Deponent in seizing the Horses at *Islington*, and there would be one to Head them ; That Mr. *Vowel* heard these Things, and at another Time *Vowel* met Mr. *Hinsbaw*, Mr. *Wiseman*, and Mr. *Plunkett* : Here *Dale's* Examination was read, which was agreeable to his Evidence given in Court, only he mentions General *Lambert*, another of the Council to be killed ; That *Hinsbaw* said he was to get as many Men as he could to assist in the Work, and that *Vowel* brought *Hinsbaw* to his House.

Page 370.

John

John Hipwel, a Soldier, sworn.

He deposed, That a Woman who was a Papist brought him to Mr. *Hudson's* House, where he met the Conspirators, and one of them said he had something to discover to him, if he could join in it; That they asked him how strong the Guards were, what Regiment he was of, what Ammunition they had, and such like Questions; That he was afterwards acquainted with the whole Design of falling on the Protector and the Guards, as above related; that he was directed to enquire what Cavaliers were in his Regiment and among the Soldiery, to drink with them, sow Divisions amongst them, and make a Party for the Work; and at the Time of Action, the Word was to be, *FALL ON*; and that next Morning some being taken Prisoners, there was much Sorrow,

Hipwel's Evidence.

Colonel Aldridge sworn.

He deposed, That Mr. *Hinsbarw* said there was a Design to fall on the Protector, and bring in *Charles Stuart* to be King; That *Hinsbarw* asked if he would be one, and making some *Queries*, he told the Deponent, they had great Hopes of accomplishing it; That there was an Officer of their own in the *Tower*, who would free the Prisoners and put Swords in their Hands, and all would be done in an Instant, and then they should have Money enough; and in the rest of his Evidence agreed with the other Witnesses.

Aldridge's Evidence.

Mr. *John Gerhard* being taken from the Bar and withdrawn, his Brother, Mr. *Charles Gerhard*, was produced as a Witness.

Mr. *Charles Gerhard* deposed, That Mr. *Hinsbarw*, his Brother *John*, and Mr. *Wiseman*, had been in *France* with *Charles Stuart*, that the Deponent met Colonel *Finch* in *Covent-Garden Piazza*, who told him of the Design to kill the Protector, seize the Guards, the Lord Mayor, &c. and proclaim *Charles Stuart*; he said, they were lifting Men

Charles Gerhard's Evidence.

Men a-pace, and had many thereabouts; That Colonel *Deane* had lifted all that Day, and himself some; That Colonel *Finch* had a Party to join him in the City; That another Time Colonel *Finch* said, That his Brother *John Gerhard* was to command a Party, and that his Brother was by, and heard the Discourse, and it was said, there were Two or three thousand Men ready about *London*, to seize on several Parts; That there was a Meeting at the *Bell-Savage* on *Ludgate-Hill*, where his Brother *John* was mentioned; That *Somerset Fox* was there, and engaged to raise the Apprentices; That his Brother *John* met Mr. *Hinsbarw* at Mr. *Jones's* House in *Rose-street*, *Covent-Garden*, and they talked of the Numbers, and other Particulars; but his Brother did not relish it, nor did he know whether he consented to act, and in many other Particulars agreed with the rest of the Witneses, but seeming tender of his Brother.

Mr. *Prideaux* told him, Though he did well to endeavour to favour his Brother, yet he must be careful to speak the Truth, because *Conscience* was nearer than a Brother: The Lord President added, *That he was not to consider the Greatness of Men, or the Relation of a Brother in this Case, but consult his Conscience, and look up to his God.* (This is ever the Cant of Rebels and Rogues in Power, when those who are dispossessed of their Territories and Estates, endeavour to recover them out of the Villains Hands that seized them.)

John Man sworn.

Man's Evidence.

He gave the same Account of the Plot, as the other Witneses, adding, that Mr. *John Gerhard* and others, had asked him to engage in it, to which he consented; but going afterwards to the *Bell-Savage*, the Conspirators would not admit him, saying, Several were apprehended about it, and they knew not what to do.

William

William Dodd sworn.

He deposed, That on *Thursday* Morning in *Whitson* Week, *Somerset Fox* acquainted him with the Plot, and they were to meet about it at Two a Clock in the Morning. Dodd's Evidence. Page 374.

Francis Fox deposed, That he was invited, by his Cousin *Somerset Fox*, to join in the Design, but he had not resolved what to do. Francis Fox.

John Wharton sworn,

He deposed, He kept a Victualling-House in *Black-Friars*, and a Gentleman, a Stranger, asked him if he would serve the King, and he might have Money enough, he would find him better Employment; he heard afterwards the Gentleman's Name was *Hinsbaw*, and believed they designed to seize the Protector and the Horse-Guards; but all he was to do was to proclaim the King, when they gave him Notice. John Wharton's Evidence.

Mr. *Barns* also was sworn, and gave a general Account of the Plot. Barns.

Mr. *Minors* sworn.

He deposed, That Major *Hinsbaw* acquainted him with the Plot; that Major *John Gerhard* was to command a Party, and the Business was in good Forwardness, but Major *John Gerhard* thought it could not be accomplished yet: And when Mr. *Hinsbaw* heard Major *Gerhard* was taken, he said, he might thank himself, for had he not delayed it, the Business might have been done two Days before. Minors's Evidence.

The Evidence being closed, it was demanded of the Prisoners, what they had to say in their Defence, to which Major *Gerhard* only said, he was falsely accused, the Witnesses did not speak Truth, and denied he knew any thing of a Plot. Mr. *Vowel* desired he might be allowed Pen, Ink, and Paper, and Counsel to advise him: Insisted again,

that by *Magna Charta*, confirmed by the Instrument of Government, he ought to be tried by a Jury of his Peers.

Serjeant *Glyn*
replies to it.

Serjeant *Glyn* replied, That an Ordinance or Act of State being declared of equal Force with an Act of Parliament, till repealed, they were as legally tried by Virtue of an Ordinance, as if there had been an Act of Parliament for it; That the old Laws, in Cases of Treason, were still in Force; for by the King, in all Acts, the supreme Governor was intended, though the King only was named; as had been held in Cases of Treason committed against a Queen Regent: And so it was where there was a Protector, or any other supreme Governor.

Mr. Attorney *Prideaux* said, That the Charge having been fully proved against these two Gentlemen, he was sorry to see them so obstinate in such a barbarous and bloody Design, and that they should shew no Signs of Repentance; (hear the Villain preach) and therefore in Behalf of the Common-wealth he prayed the Judgment of the Court: But they adjourned to the *Thursday* following, when the Prisoners were called to their Sentence.

The Prisoners
condemned,

Lisle, the President, having made a short Speech to shew the Prisoners the desperate Wickedness of their Design, how fully the Charge had been proved, and what Punishments the Law had provided in such Cases, the Sentence of the Court was read, (*viz.*) *That upon mature Consideration of the Treasons and Murders plotted and contrived by them against his Highness the Lord Protector, and the Common-wealth, and raising a Bloody War in the same, the Court did adjudge them to be hanged by the Neck until they were dead.*

Mr. *Gerhard* presented a Petition to the Protector, that he might be Beheaded or Shot.

And executed.

On *Monday* the 10th of *July*, Mr. *Vowel* was hanged on a Gallows erected at *Charing-Cross*; at his Execution he professed a great deal of Zeal for the Religion of the Church of *England*, and for the King and Royal Family, &c. and after he had

had hanged half an Hour, his Corps was convey-
ed away in a Coach.

About Four in the Afternoon of the same Day,
Mr. *Gerhard* was brought to a Scaffold on *Tower-
Hill*; his Behaviour, says this Anonymous Writer,
was sprightly, his Behaviour Cavalier-like, boast-
ing himself to be of the Religion established by
Queen *Elizabeth*, King *James*, and King *Charles*,
to which Family he declared his Affection; he
acknowledged himself guilty of Sins, for which he
had deserved Death heretofore, but as for the
Crime for which he was to die, he used not many
Words; he acknowledged however, that he knew
of the Plot: And submitting his Neck to the
Executioner, his Head was sever'd from his Body
at one Blow. As to *Somerset Fox*, he was re-
prieved.

Mr. *Echard*, in his *English* History, gives the
following Account of these Proceedings. He says,
' That within a Month after the Peace was
' made with *Holland*, for the better Establishment
' of *Cromwell's* Empire, a High Court of Justice
' was erected, according to the Model of the late
' Common-wealth, for the Trial of Persons ac-
' cused of holding Correspondence with the King,
' and for High Treason against the Life of the
' Protector. The chief Persons accused of this
' were Mr. *Gerard*, a young Gentleman of a good
' Family, about Twenty-two Years of Age, who
' had been an Ensign in the King's Army, and
' one Mr. *Vowell*, who kept a considerable School
' for Lads about *Islington*. Mr. *Gerard* was
' charged with having been at *Paris*, and there
' speaking with the King; which he did not de-
' ny, at the same Time declaring, That he went
' to *Paris* upon a private Business of his own,
' which when he had dispatched, and ready to
' return to *England*, he desired the Lord *Gerard*,
' his Kinsman, to present him to the King, that
' he might kiss his Hand, which he did in a large
' Room, where many were present; and that
' when he asked his Majesty, Whether he would
' command him any Service into *England*? His
Q² Majesty

Mr. *Echard's*
Account of
these Proceed-
ings.

' Majesty bid him to commend him to his Friends
 ' there, and to charge them that they should be
 ' quiet, and not engage themselves in any Plots,
 ' which must prove ruinous to them, and could
 ' do him no Good. And which was true; for the
 ' King had observed so much of the Temper of
 ' the People at his being at *Worcester*, and in his
 ' after Concealment the Fears they lay under,
 ' and the Difficulties of an Insurrection, that he
 ' endeavoured nothing more, than to divert and
 ' remove all Inclinations that Way. However,
 ' this High Court of Justice received Proof, That
 ' Mr. *Gerard*, and Mr. *Vowell*, had been present
 ' with some other Gentlemen in a Tavern, where
 ' a Discourse had been raised, how easy it was to
 ' kill the Protector, and at the same Time to seize
 ' the *Tower of London*; and that, if at the same
 ' Time the King were proclaimed, the City of
 ' *London* would presently declare for his Majesty,
 ' and no Body would oppose him. Upon this
 ' Evidence these two Gentlemen were condemned
 ' to be hanged.

' On the 10th of *July*, about two Months after
 ' they had been in Prison, a Gallows was erected
 ' at *Charing-Cross*, whither Mr. *Vowell* was
 ' brought, who was a Person utterly unknown to the
 ' King, or any ways intrusted by him, but worthy
 ' to have his Name and Memory preserved in the
 ' List of those who most courageously sacrificed
 ' their Lives to the Crown. He shewed himself
 ' above all the Fears of Death, which he said, he
 ' suffered, without having committed any Fault;
 ' he professed his Duty to the King, and his Re-
 ' verence for the Church, and earnestly and pa-
 ' thetically advised the People to return to their
 ' Fidelity to both, which he told them they
 ' would at last be compelled to do after all their
 ' Sufferings. He address'd himself chiefly to the
 ' Soldiers, and told them how unworthily they
 ' prostituted themselves to serve the Ambition of
 ' a Bloody Tyrant, and conjured them to forsake
 ' him, and to serve the King, which he was
 ' sure they would at last do, And so having de-
 ' voutly

‘ voutly recommended the King, the Kingdom,
 ‘ and himself to God, in very pious Prayers, he
 ‘ ended his Life with as much Christian Resolu-
 ‘ tion, as can be expected from the clearest Con-
 ‘ science. A little more Respect was shewn to
 ‘ Mr. Gerard, who that Afternoon was brought
 ‘ to a Scaffold on *Tower-Hill*, to be beheaded:
 ‘ But they were so little pleased with the Beha-
 ‘ viour of the Sufferer in the Morning, that they
 ‘ would not permit this to speak to the People,
 ‘ but urged him to discover all the Secrets of the
 ‘ Plot and Conspiracy. He told them, That if
 ‘ he had an hundred Lives he would lose them all
 ‘ to do the King any Service, and was now wil-
 ‘ ling to die upon that Suspicion; but that he
 ‘ was very innocent of what was charged against
 ‘ him; that he had not contrived, or consented to
 ‘ any Plot or Conspiracy, nor countenanced any
 ‘ Discourse to that Purpose, and offered again to
 ‘ speak to the People, and to magnify the King;
 ‘ upon which they would not suffer him to pro-
 ‘ ceed, and so with undaunted Courage he sub-
 ‘ mitted to the Stroke of the Executioner.’ See
 the last Edition of *Echard*, p. 709, and 710.

*PROCEEDINGS against ARCHIBALD Marquis of ARGYLE, for High
 Treason, 13 Car. II. 1661. in the Par-
 liament of Scotland.* Page 372.

A Charge of High Treason was exhibited a-
 gainst *Archibald* Earl of *Argyle*, in the Par-
 liament of *Scotland*, on the 23d of *January* 1661,
 by the King’s Advocate, *Sir John Fletcher*, Knt.
 in Behalf of his Majesty, and by *Sir James La-*
mount of *Inneryne*, Knt. in Behalf of himself, his
 Kindred, Friends, Vassals, Tenants, Servants, and
 others, griev’d and damnified by the said Marquis,
George Campbell, his Justice and Sheriff Depute,
James Campbell of *Ardkinglass*, Officer under the
 said Marquis, *Colin Campbell*, &c. to the Num-

The Trial of
 the Marquis of
Argyle.

The Charge
against him.

ber of between twenty and thirty, all, or the most Part of them, Friends, Followers, or Complices of the said Marquis, and under his Command, and such as he might have stopp'd or let:

Setting forth, That notwithstanding the 129th Act of the 8th Parliament of King *James VI.* the King's Royal Power and Authority over all Estates, as well Spiritual as Temporal in this Realm, was ratified and confirm'd; and it was statuted and ordained, that his Highness and his Successors, by themselves and their Councils, should be Judges competent of all their Subjects, of what Degree soever in all Causes; and that none should decline their Judgment on Pain of Treason: And in like Manner, By the first Act of the 8th Parliament of King *James VI.* his Majesty's Sovereign Authority, Royal Prerogative and Privilege of his Crown, over all Estates, Persons and Causes whatsoever, are acknowledg'd, and the whole Estates assembled in Parliament promis'd to obey and defend them against all Persons who should impugn the same: Which Act was ratified by the third Act of King *Charles I.*

Like as by the 3d and 4th Acts of *Jac. I.* in his first Parliament, and by the 37th Act of the second Parliament, and several other Acts, 'tis statuted, That none rebel against the King's Person and Authority, or make War against his Lieges, or reset such Traitors, or supply them in Red or Council, or favour or assist them, or do not rise at his Majesty's Command; they are punishable as Traitors. Like as by the 134th Act of Parliament 8th, and the 10th Act of the 10th Parliament of *Jac. VI.* all Depravers of his Majesty's Laws, Medlers in his Majesty's Affairs, or Misconstruers of his Proceedings, are punishable by Death. Like as by the 1 *Jac. V.* the third Parliament, and by the 51 of the 11th Parliament of *Jac. VI.* All Burners of Folks in their Houses, Burners of Houses and Corn, wilful fire-raising, and all Murder and Slaughter of his Majesty's Lieges, where the Party is slain, under Trust, Credit, Assurance and Power of the Slayer, the same

same is declared Treason and Læse Majesty: Like Page 373.
as by the 75 Queen *Mary*, Parliament 9, and divers other Acts, it is statuted, That no Subject, of what Quality or Degree soever, attempt to raise any Bands of Men of War, without the Royal Licence, on Pain of Death: As also by the 50th Act of the 11th Parliament *Jac. VI.* it is statuted, That if any landed Man shall be convicted of common Theft, Resort of Theft, or Stealth, Reift in Time coming, he shall incur the Pain of Treason, viz. Tinsel and Forfeiture of Life, Lands and Goods: Like as by the Common Law all Committers of Murder, Manlaughter, Robbery, Rapine, or Reif, are punishable with Death; and who are Art or Part of such Crimes; and by the same Laws, all private Imprisoners, and Keepers of private Prisons, and false Imprisoners, and all Oppression whatsoever, were punishable in like Manner.

1. Nevertheless, the said Defendants having laid aside all Fear of God, Loyalty and Obedience to their Sovereign, and natural Affection and reciprocal Duty to their Countrymen and Fellow Subjects, had most traiterously, treacherously, perfidiously and cruelly committed the Crimes of High Treason, and other Crimes, Murders, Oppressions, Robberies, Misdeeds and Malversations hereafter specified, contrary to the said Laws and Statutes, whereby they had incurr'd the Pains therein contain'd; particularly the said Marquis of *Argyle*, *George Campbell* his Servant, and Justice and Sheriff Depute, *James Campbell* of *Ardkinglass*, and their Accomplices, having from the Beginning of the Insurrections and Troubles in the Years 1639, 1640, 1641 and 1642, both secretly and avowedly appear'd in constant Opposition to the late King, his Majesty's Father, his Royal Councils and Commands; and after his late Majesty's Condescensions to the Desires of his Lieges, how unreasonable soever; and his said late Majesty departed to his Kingdom of *England*, a contented Prince from a contented People; nevertheless the said Offenders continuing in their trea-

sonable Malice against their Sovereign, did, in the Months of *January, February, March, April, May, June, July, August, September, October, November* and *December*, or one of them, in the Year of God 1643, traiterously and expressly against the Will of the said late King, call and convocate a pretended Committee and Convocation of his Majesty's Lieges; and in the said treasonable and unlawful Convocation did appoint treasonable Levies of his Majesty's Subjects, in Opposition to his Majesty's Person, Authority, and express Command; and did afterwards actually invade the Kingdom of *England*, taking his Majesty's Towns, killing his Subjects, destroying their Estates and Fortunes, joining with the Rebels in *England*, and an Army of Sectaries there, for the Destruction of his said late Majesty's Person, Royal Family, Authority and Government.

And afterwards in the abovesaid Months, or one of them, in the Year 1646, the said Marquis, and his Accomplices, or some of them, in an unheard of Way of Treachery and Treason, deliver'd his said late Majesty's Person into the Hands of the said Rebels, who thereafter treacherously murder'd him: For preventing whereof the whole States of this Nation finding it necessary to raise an Army for their said Sovereign's Relief, the said Offenders by subtle and clandestine Means, and by Declarations and publick Speeches, in the Face of the Parliament, opposed the same: And the said Act being pass'd in the Month of——— 1648, publickly enter'd their Disassent or Protestation against the same most treasonably and treacherously, against the Authority of the said late King and the Estates of Parliament; and their Malice not resting here, they did in *October* 1648, raise an Army, and in open Hostility march to the Royal Burghs of *Edinburgh* and *Sterling*, pursuing his said Majesty's Army, killing his good Subjects, and wasting and destroying their Lands, Goods and Houses; and thereafter traiterously invited the late Tyrant and Usurper, *Oliver Cromwel*, to enter the Kingdom of *Scotland* with an Army of Strangers,

Strangers, Traitors and Sectaries, sustaining him and his treasonable Army with Provisions, feasting him and his prime Officers in the Metropolitan City of the Kingdom, and in his Majesty's Fort and Strength thereof, the Castle of *Edinburgh*, which was the Kingdom's Bane and Ruin, and which immediately preceded the Murder of their Sovereign, his present Majesty's Royal Father.

2. And the said Defendants, particularly the Marquis, not having yet satisfied his Malice and treasonable Purposes; or considering his Duty to God, his Prince or Country, the Nobility of his Family, or his own Honour, the many Honours and Offices graciously conferr'd on him by his late Majesty, and the Dignity vouchsafed him by his present Majesty, of setting the Crown upon his Head at his Coronation in *Scotland*, 1. Jan. 1651. When in the Presence of God, Angels and Men, with bended Knees and uplifted Hands, he swore, *By the Eternal God who liveth and reigneth for ever, I shall support thee to my Uttermost: And I swear to be a Loyal and true Subject, and faithful to the Crown.* And thereafter kneeling, and holding his Hands betwixt our Hands, did swear these Words: *By the Eternal and Almighty God who liveth and reigneth for ever, I become your Liege, and Truth and Faith shall bear to you, and live and die with you, against all Manner of Folk whatsoever in your Service.* Notwithstanding all which, after he had deserted his present Majesty and his Army at *Sterling*, when they were on their March to *England*, in the Year 1651, he did in the Months aforesaid, Anno 1652, at the Desire of General *Dean* and Colonel *Overton*, his Majesty's avowed Enemies, swear, or at least subscrib'd and acknowledg'd the Government establish'd by that wicked Tyrant *Oliver Cromwell*, and his Adherents, in a Commonwealth, without a King or House of Lords; and conformably thereto the said Marquis of *Argyle* perjuredly and traiterously, after the said Army of Rebels and Sectaries, commanded by the said *Dean* and *Overton*, were

Page 374.

Argyle's Oath to the King.

were drawn into a Streight, and encompass'd by the King's Forces, did interpose in Favour of the Enemy, commanding and counselling his Majesty's faithful Subjects and Troops to suffer them to pass by without Opposition, by Means whereof the Enemy escap'd. Like as the said Marquis, to evince his treasonable Compliance and Affection to the said wicked Tyrant and Usurper, *Oliver Cromwell*, in his treasonable Courses and Attempts, did in the Month of *September*, *Anno 1654*, ——— upon a pretended Call from the said Tyrant to convene a pretended Parliament, without Compulsion or Necessity engyre himself in Favour of some Shires, and dealt with them to elect him their Commissioner, and went to the said pretended Parliament at *Westminster*, and there treacherously and unworthily, contrary to his Dignity, sat and voted in the said pretended Parliament, as a Member of the House of Commons, for establishing the said Tyrant in his Authority, and deposing and abolishing the King and Royal Family; and in further Execution of his Treasons in the Years 1653 or 1654, did sell seventeen Canons, Seven hundred Muskets, and other Ammunition, to the said Rebels.

3. That in the Year 1654, several of his Majesty's Loyal Subjects having taken Arms to vindicate his Authority, and revenge the late King's Murder, under the Command of *William* Earl of *Glencairne*, and *John* Earl of *Middleton*, against whom the Enemy being about to transport 800 Men to the North, who were driven a-shore and wreck'd on the Isle of *Mule*; the said Marquis and his Accomplices did, in the Months aforesaid, *Anno 1654* or *1655*, assemble all their Boats, and transport the Enemy to *Dunbarton*, and other Places of Safety.

4. That the said Marquis and his Accomplices, in the Years aforesaid, did join the said Rebels in the Highlands, for the Suppressing the said Earls of *Glencairne* and *Middleton*, and therefore,

5. That when the said Arch-Traitor and Regicide died, the said Marquis countenanced and assisted

sisted in the Proclaiming his Son *Richard* at *Edinburgh*, by which his Majesty's Authority was abolish'd: And that the said Usurper *Richard*, Page 375. having summon'd a pretended Parliament to meet at *London*, the said Marquis procur'd himself to be elected a Commissioner for the Shire of *Bamf*, and sat as a Member of that traiterous Convention at *London*, wherein a Declaration was made for debarring his Majesty and his Successors from their just and lawful Right and Title to the Crowns of these three Kingdoms; that he also accepted of the Sheriffship of *Argyle* from the Enemy, and exercis'd it under them, and did several Times swear and subscribe in their Favours against his Majesty, his Successors, Crown, Government and Sovereignty, and to be obedient to their Government in Form of a Commonwealth.

6. That the said Marquis farther manifested his treasonable Intentions by his traiterous Speeches in the Assembly at *Innerary*, Anno 1652 or 1653, when some Ministers praying for his Majesty, the said Marquis openly declar'd before them, *That they were Fools to pray for that wicked, false, malignant King, whom God had cast off, and would never restore again*, and other Words to that Purpose, having utter'd the like treasonable Speeches at *London*, and elsewhere; That the said Marquis also, at his own House at *Lochhead* in *Kentyre*, stamp'd with his Foot and boasted, *That he was the only Man that plotted the Rising of the Forces in the West*, which were the Ruin of his Majesty; That the said Marquis receiv'd from the Usurper, *Oliver Cromwell*, Twelve thousand Pounds for his Correspondence and the good Services done him in ruining his Majesty's Affairs; That he corresponded with *Richard Cromwell* and *Charles Fleetwood* in 1658 and 1659, and with Sir *Archibald Johnston* of *Warristoun*, and sat in that traiterous Assembly at *London*, call'd *The Committee of Safety*, of which *Warristoun* was President, where they emitted a Declaration for abolishing his Majesty's Right and Title to the Crown.

7. That

Charge against
the Marquis
for his Out-
rages against
the Lamonds.

7. That the late King having, in the Month of *March* 1653, granted a Commission to the said *Sir James Lamond*, to levy Forces in his Name against the Rebels, and particularly against the Marquis of *Argyle*, the principal Promoter of those odious and rebellious Practices; and the said *Sir James* having, according to his Duty, levy'd Forces accordingly, and acted for his Majesty's Service till the Year 1646; and on his Majesty's coming to *Newcastle*, and casting himself on the Fidelity of the *Scotish* Army there, the said *Sir James* laid down his Arms, and retir'd with his Friends in a peaceable Manner to his Houses of *Towart* and *Escog*; the said Defendants, or some of them, being commanded by the said *James Campbell* of *Arkinglass*, *Dougal Campbell*, and other Officers of the said Marquis's, did in a hostile Manner lay siege to the said two Houses; and the said *Sir James* having capitulated for the Indemnity of his Friends and Followers in their Persons and Fortunes, with Power to pass whither they pleas'd, as by the said Articles subscrib'd by the said *James Campbell* and *Colin Campbell*, &c. dated the 3d of *June*, appears; they did nevertheless plunder the said Houses of all the Furniture and Goods, rob the Persons therein of all their Money and Clothes, and drive away their Cattle, by which, and their former Devastations, the said *Sir James*, his Vassals and Friends were dammified Fifty thousand Pounds Sterling; and murder'd several poor helpless Women, who endeavour'd to rescue their Goods.

8. The said Offenders, notwithstanding the said Capitulation, did detain Prisoners above Two hundred Persons, taken in the said Houses, binding them with Cords in a very barbarous Manner, and keeping them in great Torment and Misery, and murder'd several innocent People, both young and old, particularly several sucking Children; and that the said Offenders afterwards set Fire to the said Houses of *Escog* and *Towart*, burning the same, and destroying all the Orchards and Plantations about them.

9. That

9. That contrary to the said Capitulation and to the Laws and Statutes of the Realm, on the ——— Day of *June* 1646, they carried the Prisoners they had taken in the said Houses to *Denoone*, and there cruelly hang'd near thirty-six of them upon one Tree, being most of them Gentlemen of Note of the Name of *Lamond*, and Vassals to the said Sir *James*; That upon the same Day they murder'd several more of the said Prisoners with Durks, Swords and Pistols, particularly *John Lamond* of *Anchinsballeck*, being fourscore Years of Age, whom they stabb'd with Durks and Skanes at the Ladder Foot; and did barbarously murder, stab and cut down *Thomas Brown*, *Neill Mackneill*, and about seven and twenty more of the said Prisoners, of whom *John Jamison*, then Provost of *Rothesay*, was thrice shot thro' the Body; and finding some Life still in him, they thrust several Durks and Skanes into him, and at last cut his Throat, in Contempt of his Majesty's Authority, whose Person he represented in the said Burgh; denying the said murder'd Persons Time so much as to recommend themselves to God: And it is remarkable, that the Tree on which the said thirty-six Gentlemen were hang'd, and stood in the Kirk-yard of *Denoone*, and was a fresh growing Ash-Tree, full of Leaves, was immediately blasted, and never bore a Leaf afterwards; and the Tree being cut down two Years afterwards, there issued out at the Root a Spring like Blood running down in Streams for several Years after, till the Murderers, or some of their Friends observing it, generally resorted to as miraculous, stock'd up the Root, and fill'd the Place with Earth. [This Relation is contain'd in the Charge against the Marquis, and probably there is such a Tradition in that Part of the Country, which is sufficient to shew how this barbarous Fact was detested there; but as to the Miracle, I should as soon believe their second Sights, Enchantments, and other Superstitions peculiar to *Scotland*, as this].

10. That the said Sir *James Lamond*, his Brethren and Friends being detain'd Prisoners, *Anno* 1646,

1646, in the said Marquis's House of *Innerary*; the said *George Campbell*, Sheriff and Justice Depute to the said Marquis *James Campbell* of *Ardkinglas*, Colonel to the Marquis *Dougal Campbell*, his Major, and other Persons, being met in a Kind of Conventicle, demanded of the said Sir *James*, if he would submit his Life and Fortune to them, or not; who answer'd, That he would not, pleading his Majesty's Commission and the Capitulation given him, and that being the King's Baron, he could not be judg'd by them, none of them being such; whereunto the said *George Campbell* reply'd, That Sir *James* was a false Knave, and he would judge him and hang him, as Justice Deputy of the said Marquis; and having search'd Sir *James* for the Capitulation, and finding he had it not, considering the Prejudice that might follow to them, they forc'd the said Sir *James* to sign a Paper, declaring that his Quarrel was unjust, that he repented thereof, and did pass from the Capitulation; and two Days after the said Sir *James*, his two Brothers, and four Friends, were committed Prisoners in several Houses belonging to the said Marquis; That afterwards Sir *James*, by an Order from his Majesty and the Parliament, were brought to *Sterling* to preserve him from the Marquis's Cruelty, who had often threatned that the World should not save his Life, and that he repented nothing more, than that he took not that bloody Knave's Life while he had him in his Power, saying, That all was but one Fault.

11. That the said Offenders, to manifest their Cruelty against the said Sir *James*, Anno 1651, sent *John Campbell* of *Ardtarich* with thirty armed Men, to search several Houses on the Coast in the Sherifffdoms of *Ayre* and *Ranfrew*, where they heard Sir *James* was, in order to have murder'd him; but he happen'd to be conceal'd in a Wood; whereupon the said Assassins retir'd to their Boats, and the said Sir *James* fled to the Isle of *Arron*, to shelter himself under the Protection of the Dutcheffs of *Hamilton*; That the said Marquis and his Accomplices being disappointed in this Attempt,

Attempt, endeavour'd to get a Warrant from the Committee of Parliament to have apprehended the said Sir *James*, in order to have murder'd him, but were refus'd it.

12. That when the said Sir *James* was Prisoner in the Palace of *Dunstaffneiche*, the said Marquis, by Threats, compell'd him to sign a Paper, resigning all his Right and Interest in his Property, and his Vassals Superiority, and that he would abjure *Scotland*, and never be seen therein; but notwithstanding still detain'd him Prisoner.

13. That the said Marquis and his Accompllices order'd the said *Archibald Campbell*, Keeper of the said Castle of *Dunstaffneich*, in the Year 1649, to extort a Bond from the said Sir *James*, for the Payment of 4400 Marks for four Years Entertainment in the said Castle, where he was traiterously and illegally detain'd Prisoner; and the said Bond being assign'd to the said Marquis, he prosecuted Sir *James* thereupon before *English* Judges, and took out Caption thereupon, in order to incarcerate him.

14. That the said *George Campbell*, Justice in the Year 1648, call'd a pretended Court of Justice, and having impanell'd a Jury of their Vassals, condemn'd two of the *Lamonds*, and hang'd them, the said Marquis countenancing and promoting the said Murders, and taking Possession of their Lands, which he still possess'd, while the Children of the said *John Lamond* liv'd upon Charity; That he also unjustly possess'd the Lands of *John Lamond*, above-mention'd to be murder'd at the Ladder Foot; and that in the Year 1648, they extorted a Grant from *Duncan Lamond*, Uncle of the said *Patrick Lamond* they had murder'd, of his Right in the Lands he held of the Laird of *Lamond*, threatening to hang him as they had done his Nephew, if he did not sign it; and that the said Marquis in like Manner possess'd himself of several Estates and Lands belonging to the said Sir *James*, which he still forcibly held, as he did the Lands of *Dougal Macdougal*,

Page 380.

gall, and others; and that the said *Duncan Campbell*, in the Year 1646, with his Accomplices, came to the Lands of *Cowston* and *Stroan*, and there murder'd *Archibald Lamond*, *John Lamond*, and eight and thirty more, early in the Morning, and among them several Children. [Afterwards the Lamonds set forth more particularly the Damages they sustain'd by the Campbells, as the Plundering Sir James's House, Destroying his Parks, Orchards, &c. Murdering and Imprisoning others of their Friends and Relations, &c.]

Page 381.

By all which the Defendants had incurr'd the respective Pains and Punishments prescrib'd by the Laws and Statutes aforesaid, and forfeited their Lives, Lands, Dignities, Estates and Goods to his Majesty.

The Defendants summoned to answer the said Charge in Parliament.

Whereupon his Majesty commands his Heralds and Officers to summon the whole forenamed Persons, Defendants, as followeth, (*viz.*) so many of them as were within *Scotland*, personally, if they could be apprehended; and failing thereof, at their Dwelling-houses, and by open Proclamation at the Market-Crosses of the Headboroughs of the Sherifffdoms, or other Jurisdictions in which they dwelt; and those who were without the Kingdom, by open Proclamation at the Market-Cross of *Edinburgh* and Shore of *Leith*, upon three-score Days of Warning, to appear before the Estates of Parliament at *Edinburgh*, to answer at the Instance of his Majesty's Advocate, for his Interest, and at the Instance of the said Sir *James Lamont*, for himself, and in the Name and Behalf of the Persons aforesaid; that is to say, the said Defendants to hear and see it found and declared, verified, and prov'd in Presence of the said Estates of Parliament, or such as shall be authorized by his said Majesty, and the Estates, That the said Defendants, and every one of them, at least one or other of them, have committed the Crimes of High Treason, and other Crimes, Murders, Robberies, Oppressions, Misdeeds and Malversations respectively above specified, or one or other of them; at least that they and every one of them,

or one or other of them were Authors, Abettors, Contrivers, Devisers, or Art and Part thereof, &c. And that the said Heralds and Officers summon the Witnesses against the said Defendants to appear before the Estates of Parliament at the same Time and Place. Page 382.

*Given under the Royal Signet at Edinburgh
the 28 December, 12 Car. II. 1660.*

Edinburgh, Jan.
23, 1661.
Sic Subscribitur,

Ex Deliberatione Com-
missionis Parliamenti
Sic Subscribitur,

W. Sharp.

Jo. Cunninghame.

To which Charge 'tis said the Marquis put in this very short Answer:

1. To the first Article he only says, That it appear'd to be malicious, because it included every Thing said or done since the Year 1538, notwithstanding the Acts of Oblivion pass'd by his late and present Majesty. The Marquis's Answer.

2. Because there was no Motive or Reason assign'd for any Thing that was done, or for what Intent, and so making any Man engag'd more malicious than the Devil, and more unreasonable than brute Beasts.

3. It charges all that had been done by Kirk or Kingdom to the Marquis of *Argyle*, tho' he neither was at the Beginning of the Business, or very many of the Particulars mentioned, referring to a Narration of his Carriage, which shew'd, he says, the Reasons of all he did being meerly for Religion, King and Kingdom, according to the Covenant, never pressing any Thing earnestly, but for the Covenant; nor opposing any Thing, but when the Covenant was refus'd.

That Mr. *John Stewart's* Process would clear much of the Falshood of this Point; for if such Discourse had been, it was narratively of a Debate before the Sitting of the Parliament in 1640; and however it was pardon'd by the Act of Oblivion

vion pass'd by his late Majesty, *Anno 1641*, as were the Rest of the Facts charg'd in this Article.

4. He acknowledg'd his Obligations to his Majesty, but he should wrong him to say he desired a Promise to take away what he had commended so much in the late large Treaty, Scotland's *Desire of Unity in Religion and Uniformity of Church Government*, as a Means to preserve the Peace between the two Kingdoms; nor did Scotland join with any Army in *England* in League and Covenant, but with the two Houses of Parliament.

5. Neither did he burn, or give Orders to burn *Menstre*, tho' he had great Provocations; for the Day before, all the Houses of two Parishes, of which he was Superior, were burnt, and many poor Families reduc'd to extreme Necessity thereby, and a Son of the Earl of *Sterling*, who was possess'd of *Menstre*, concurr'd in that Fact, tho' the poor People had not wrong'd him.

6. That the Sixth was an unjust Calumny, and answer'd before.

7. He says, That in *May* or *June 1646*, his Majesty sent to *Alexander Macdonald, &c.* to lay down their Arms, and that they were engaged not to join *Macdonald*; notwithstanding which, they continued in Arms against *David Lesly*, who took them Prisoners without any Capitulation, and dispos'd of them as the Council of War thought fit, which could not be charg'd upon the Defendant; and thanks the Lord, he never took any Man's Life, but in Conflict, or by Order of Law.

8. That he was in *Ireland*, raising Recruits for the *Scots* Army, when the King came to the Army at *Newark*; and that his Majesty declar'd he came not with an Inclination to continue the War, and make a Division between the Kingdoms, but to comply with his Parliaments in all Things, for settling Truth and Peace; whereupon the Committee of the *Scots* Parliament, and the Generals of their Army declar'd to his Majesty himself, and the two Houses of Parliament in *England*,

land, That they receiv'd his Majesty on these Terms; and all this was done before the Defendant came to *Newcastle*; and here he observes, That the Parliaments acknowledg'd by his late and present Majesty, are call'd a factious Party, and the Defendant the Ringleader, and charges him with going to *London*, but omits to say it was by his Majesty's and the Commissioners Order, and that he only carried Instructions for the hastning the Propositions, and was commanded by his Majesty to take the Advice of the Duke of *Richmond* and the Marquis of *Hertford*; and particularly, if it was advisable, the *Scots* Army should declare for his Majesty, who conjur'd him to tell the King, It was the only Way to ruin him; for the *English* never desir'd he should prevail over his Parliament by the Sword, much less by a *Scotish* Army, which would set all *England* against him as one Man, and therefore desir'd his Majesty to accept the Propositions, no other Way being left for his Majesty's Advantage; which Advice the Defendant deliver'd to his Majesty. It must be remember'd also, That at this Time the Parliament of *England* was sitting freely and fully, neither the Independants or Sectaries able to carry one Vote, and the Houses declared their Resolution to maintain his Majesty's Person and Authority; That the Discourse he is said to have made in the Committee was forg'd, there being nothing mov'd at that Time concerning his Majesty's Person; and if there was, he was not at their Consultations; and as to what was done in full Parliament, no Man was ever made to answer where the King had approv'd them a lawful Parliament; and of such a Nature were most Things charg'd in the Libel, yea all of them, except the Words in 1651; and he thought it would be more for his Majesty's Honour, to vindicate the *Scots* Parliament, than charge them with such foul Crimes, and call them a factious Party.

Page 384.

9. The Estates of Parliament in 1648, met by his Majesty's special Authority, being one of the Sessions of the Parliament of 1644; That Crom-

well did not bring his Army into *Scotland* then, only a small Party to *Lothian*; and that he did not require Pledges, and the Strengths of the Kingdom, was at that Time thought a Mercy; he always declar'd he would not remove till he had *Berwick*; and the Informers might imagine that was in the Defendant's Power; and he did remove; but what Instructions were sent by Sir *John Cheesly* were neither of his Dyting or Writing.

10. It being known how Instrumental the Defendant was in his Majesty's Restitution, this Article was inserted on Purpose to fully his faithful Services; but his Majesty had acknowledg'd the contrary by Word and Write; and as to the Marquis of *Montrose's* Death, he neither consulted it, or voted it, tho' it was done by Parliament; and the Charge of his Corresponding with *Cromwell* was most false; as to the Declaration the King was desir'd to sign at *Westkirk*, he did not press it, but dealt with some Ministers to forbear pressing his Majesty, the King declaring it was against his Conscience, and a Reflection on his Royal Father; tho' if the King had done it at their Desire, he knew no Crime in it.

11. That he never oppos'd the Earl of *Glencairn*, and resolv'd never to join with General *Monk* in it, tho' he was at the Capitulation; That he never had a Company of Foot under his Pay in *Argyleshire*; but they intrusted him with a Watch for that Shire, as was common in the Highlands in broken Times; but he hop'd General *Monk* would not say, that ever he requir'd an Engagement of them as Soldiers, or employ'd them at all; but because they did not oppose his Son, *Monk* would not continue his Assistance to the Shire, but spoke against the Defendant what he pleas'd, to the Dissatisfaction of the *English*; That he never treated the Earl of *Glencairn's* People ill; tho' if he had known that he and *Middleton* had his Majesty's Commission, he might have been more serviceable to them; That he did indeed think their Stirring unseasonable at that Time,

Time, and had Reasons for it that would satisfy any one; but as for his Undertaking to bring off any, it was a Mistake; for *John Dowgal*, the Person mentioned, was not at all engaged in that Service, when the Earls of *Glencairn* and *Middleton* were in the Field.

To this Answer we find another added in the *Folio*, which seems to have been work'd up by the Marquis's Friends, for the Vindication of his Reputation, long after the Trial.

And first, they make him say, That he never transacted any Thing from the Beginning of the Troubles to the Year 1651, but what was warranted by the Authority of Parliament; and that afterwards, till the Year 1660, he only submitted to the Usurpation, as others did, which he was in no Condition to oppose.

Another Answer work'd up by his Friends.

That he knew of no Invitation of *Oliver Cromwell* into *Scotland*, but on the contrary, an honest Endeavour to keep him out by fair Means, which they could not do by Force; and for *Cromwell's* Visiting him in *Edinburgh-Castle*, he was not the Keeper of it. Page 386.

He acknowledges the Oath he took to his Majesty, and he did not desert him at *Sterling*, but stay'd behind by the King's Permission, on Account of his Wife's Illness. That he capitulated only to live peaceably under the Parliament of the Commonwealth of *England*; but no Mention was made in it of excluding the King and House of Lords. This Part he refus'd.

That he was ill, when the Forces march'd out of *Argyleshire*, and so was not with them; however, nothing was transacted but according to the Articles of Capitulation; That he refus'd to sit in the Parliament of *England* till Necessity compell'd him to it; That he did sell some Canon to *Deane*, when he would not suffer him to keep them; That there was a Mistake in the Article concerning Colonel *Cobbet*; for the Expedition was ended, when the Ships were broken at *Mull*; nor were the Earls of *Glencairn* or *Middleton* then in the Field, or any that had a Commission from

his

his Majesty; That it was a Mistake to charge him with being present at the Proclaiming *Richard*, tho' General *Monk* oblig'd him to attend at the Proclaiming *Oliver*.

He acknowledg'd he was desir'd (or rather elected) by *Aberdeenshire*, to go (and represent them in the Parliament) at *London*, in *Richard's* Time; tho' he had refus'd in *Oliver's*; but he was driven by Necessity, out of Respect to Religion and his native Country, and to preserve himself from Ruin, not without Hopes that something might have been thought of for his Majesty, because of the Freedom of Elections in *England*; That nothing was so much as mention'd in that Parliament to the King's Disadvantage; and a Breach was made there, by which his Majesty enter'd; by the Lord's Blessing thereafter, as he had observ'd to several was probable; and that when he return'd to *Scotland*, he endeavour'd to prevent the Union of the Kingdoms; That his private Business at *London* was to get off a great Sum with which he was charg'd in the Exchequer, and no Ways able to pay; nor did he go to that Parliament till the Invaders (Usurpers) had been seven Years in Possession; and all Lawyers pleaded their Authority and Ordinances, and there was no other visible Power or Authority.

As to that Part of the Charge which says, he prohibited the Praying for his Majesty, it was false; for his Parish Minister and his own Chaplain, when the *English* were at *Inverrary*, pray'd constantly for his Majesty, and those for whom he was engaged, by either Natural, Civil, or Christian Bonds.

That he had no such Authority to be Sheriff from the Usurpers, as was charg'd, but by Virtue of an Act of Parliament he had half the Excise of Wines, to re-imburse him what he had laid out for the *Irish* Army; but the Protector took Part of it from him in 1657, so far was he out of his Favour.

That he never corresponded with *Richard Cromwell* or *Fleetwood*, but about his private Affairs;

fairs; nor with Sir *Archibald Johnstoun*, to the Prejudice of King or Country; or at all after the Committee of Safety met.

As to the last Part of the Charge, the Mur- Page 387.
dering the *Lamonds*, and Seizing their Estates, he says, Colonel *Campbell Ardkinglass* had his Commission as Colonel from the Parliament, and not from him; and if he pursued *Lamond*, it was as a Rebel or Traitor, according to an Act of Parliament approv'd by his late and present Majesty; but if they had acted unwarrantably, they must answer for themselves; That the Defendant was in *England*, when *Lamond* was taken out of his House, who was detain'd Prisoner, for refusing to return *Alexander Macdonald* according to Capitulation; That *Lamond* had murder'd many Men, Women, and Children, and several of them after Quarter given, burnt the Houses of several Gentlemen, and others, and destroy'd their Goods and Lands; That *Lamond* was afterwards detain'd for Debts due to the Defendant, and the Captain of *Dunstaffage*; That the Defendant was not in Possession of any of the *Lamonds* Lands; and if he was, they were to be recovered from him by Civil Process; and urg'd in Behalf of himself, and his Depute *George Campbell*, That they had murder'd none of the Men named, with their own Hands; nor was any Man condemn'd to die but what was notoriously guilty; nor any who had surrendred upon Capitulation, though he did not conceive any Man could pardon a Rebel, without a Warrant, and take him out of the Hands of the Courts of Justice.

The Proceedings hereupon are thus related by Bishop *Burnet*, in his History of his own Times, Vol. I. p. 122, &c.

Bishop *Burnet's*
Account of the
Proceedings
against the
Marquis.

' He had Council assign'd him, who perform'd
' their Part very well; The Marquis made a
' long Speech himself, wherein he chiefly insisted,
' That during the late Wars, he was but one a-
' mong a great many more; he had always acted
' by Authority of Parliament, and according to

' the Instructions that were given him as oft as he
 ' was sent on any Expedition or Negotiation. As
 ' to all Things done before the Year 1641, the
 ' late King had buried them in an Act of Oblivion then pass'd, as the present King had also
 ' done in the Year 1651; so he did not think he
 ' was bound to answer to any Particular before that
 ' Time. For the second Head, he was at *London*
 ' when most of the Barbarities set out in it were
 ' committed; nor did it appear that he gave any
 ' Orders about them. It was well known, that
 ' great Outrages had been committed by the *Mac-*
 ' *donalds*; and he believ'd his People, when they
 ' had the better of them, had taken cruel Re-
 ' venges: This was to be imputed to the Heat of
 ' the Time, and to the Tempers of the People,
 ' who had been much provok'd by the Burning of
 ' his whole Country, and by much Blood that
 ' was shed. And as to many Stories laid to the
 ' Charge of his Men, he knew some of them
 ' were mere Forgeries, and others were aggrava-
 ' ted much beyond the Truth; but what Truth
 ' soever might be in them, he could not be an-
 ' swerable, but for what was done by himself, or
 ' by his Orders. As to the third Head, of his
 ' Compliance with the Usurpation, he had stood
 ' out till the Nation was quite conquer'd; and in
 ' that Case it was the receiv'd Opinion both of
 ' Divines and Lawyers, that Men might lawfully
 ' submit to an Usurpation, when forc'd to it by an
 ' inevitable Necessity. It was the Epidemical
 ' Sin of the Nation. His Circumstances were
 ' such, that more than a bare Compliance was
 ' requir'd of him. What he did that Way was on-
 ' ly to preserve himself and Family, and was not
 ' done on Design to oppose the King's Interest,
 ' nor did his Service suffer by any Thing he did.
 ' This was the Substance of his Defence in a long
 ' Speech, which he made with so good a Grace,
 ' and so skilfully, that his Character was as much
 ' rais'd as his Family suffer'd by the Prosecution.
 ' In one Speech, excusing his Compliance with
 ' *Cromwell*, he said, What could he think of that
 ' Matter,

' Matter after a Man so eminent in the Law as
 ' his Majesty's Advocate, had taken the En-
 ' gagement? This inflam'd the other so much,
 ' that he called him an impudent Villain, and
 ' was not so much as chid for that barbarous
 ' Treatment. Lord *Argyle* gravely said, He had
 ' learned in his Affliction to bear Reproaches;
 ' but if the Parliament saw no Cause to condemn
 ' him, he was less concerned at the King's Advo-
 ' cate's Railing. The King's Advocate put in an
 ' additional Article of charging him with Acces-
 ' sion to the King's Death, for which all the
 ' Proof he offered lay in a Presumption: *Crom-*
 ' *well* had come down to *Scotland* with his Army
 ' in *September* 1648, and at that Time he had
 ' many and long Conferences with *Argyle*; and
 ' immediately upon his Return to *London*, the
 ' Treaty with the King was broken off, and
 ' the King was brought to his Trial: The Advo-
 ' cate from thence inferr'd, that it was to be pre-
 ' sumed that *Cromwell* and *Argyle* had concerted
 ' that Matter between them. While this Process
 ' was carried on, which was the solemnest that
 ' ever was in *Scotland*, the Lord *Lorn* continued
 ' at Court soliciting for his Father; and obtain'd Page 388.
 ' a Letter to be writ by the King to the Earl of
 ' *Middletoun*, requiring him to order his Advo-
 ' cate not to insist on any publick Proceedings be-
 ' fore the Indemnity he himself had passed in the
 ' Year 1651. He also required him, when the Trial
 ' was ended, to send up the whole Proceedings, and
 ' lay it before the King, before the Parliament should
 ' give Sentence. The Earl of *Middleton* submitted
 ' to the first Part of this; so all farther Enquiry into
 ' those Matters were superseded. But as to the
 ' second Part of the Letter, it looked so like a Dis-
 ' trust of the Justice of the Parliament, that he said
 ' he durst not let it be known, till he had a second
 ' and more positive Order, which he earnestly
 ' desired might not be sent, for it would very
 ' much discourage this Loyal and Affectionate
 ' Parliament. And he begg'd earnestly to have
 ' that Order recalled, which was done: For some
 ' Time

' Time there was a Stop to the Proceedings,
 ' in which Lord *Argyle* was contriving an E-
 ' scape out of the Castle. He kept his Bed for
 ' some Days, and his Lady being of the same
 ' Stature with himself, and coming to him in a
 ' Chair, he had put on her Cloaths and was go-
 ' ing into the Chair; but he apprehended he
 ' should be discovered, and his Execution hasten-
 ' ed, and so his Heart failed him. The Earl of
 ' *Middleton* resolved, if possible, to have the
 ' King's Death fastened on him: By this Means,
 ' as he would die with the more Infamy, so he
 ' reckoned this would put an End to the Family,
 ' since no Body durst move in Favour of the Son
 ' of one judged guilty of that Crime; and he, as
 ' was believed, hoped to obtain a Grant of his
 ' Estate. Search was made into all the Precedents,
 ' of Men who had been at any Time condemned
 ' upon Presumption; and the Earl of *Middleton*
 ' resolved to argue the Matter himself, hoping the
 ' Weight of his Authority would bear down all
 ' Opposition: He managed it, indeed, with more
 ' Force than Decency, he was too vehement, and
 ' maintained the Argument with a Strength, that
 ' did more Honour to his Parts, than to his Ju-
 ' stice or his Character. But *Gilmore*, though
 ' newly made President of the Session, which is
 ' the Supreme Court of Justice in that Kingdom,
 ' abhorred the Precedent of attainting a Man up-
 ' on so remote a Presumption; and looked upon
 ' it as less justifiable, than the much Decried At-
 ' tainder of the Earl of *Strafford*: So he under-
 ' took the Argument against *Middleton*; they re-
 ' plied upon one another thirteen or fourteen
 ' Times, in a Debate that lasted many Hours.
 ' *Gilmore* had so clearly the better of the Argu-
 ' ment, that though the Parliament was so set
 ' against *Argyle*, that every Thing was like to
 ' pass that might blacken him, yet when it was
 ' put to the Vote, he was acquitted as to that
 ' by a great Majority; at which he expressed
 ' so much Joy, that he seemed little concerned
 ' at any Thing that could happen to him after
 ' that.

that. All that remained, was to make his Compliance with the Usurpers, appear to be Treason. The Debate was like to have lasted long. The Earl of *Lowdun*, who had been Lord Chancellor, and was counted the eloquentest Man of that Time, for he had a Copiousness in Speaking, that was never exhausted, (he was come of his Family, and was his particular Friend) had prepared a long and learned Argument on that Head: He had gathered the Opinions both of Divines and Lawyers, and had laid together a great deal out of History, more particularly out of the *Scotish* History, to shew that it had never been censured as a Crime; but that on the contrary, in all their Confusions, the Men who had merited the most of the Crown in all its Shakings, were Persons who had got Credit by Compliance with the Side that prevailed, and by that Means had brought Things about again. But while it was doubtful how it would have gone, *Monk*, by an inexcusable Baseness, had searched among his Letters, and found some that were writ by *Argyle* to himself, *that were hearty and zealous on their Side*. These he sent down to *Scotland*, and after they were read in Parliament, it could not be pretended that his Compliance was feign'd, or extorted from him. Every Body blamed *Monk* for sending these down, since it was a Betraying the Confidence that they then lived in. They were sent by an Express, and came to the Earl of *Middletoun* after the Parliament was engaged in the Debate; so he ordered the Letters to be read. This was much blam'd, as contrary to the Forms of Justice, since Probation was clos'd on both Sides. But the Reading of them silenced all farther Debate; all his Friends went out, and he was condemned as guilty of Treason. The Marquis of *Montrose* only refused to Vote; he owned he had too much Resentment to judge in that Matter. It was designed he should be hanged, as the Marquis of *Montrose* had been; but it was carried that he should be beheaded, and that his Head

‘ should be set up where Lord *Montrose*’s had
 ‘ been set. He received his Sentence decently,
 ‘ and composed himself to suffer.

‘ The Day before his Death he wrote to the
 ‘ King, justifying his Intentions in all he had
 ‘ acted in the Matter of the Covenant: He pro-
 ‘ tested his Innocence as to the Death of the late
 ‘ King; he submitted to his Sentence, and wished
 ‘ the King a long and happy Reign: He cast his
 ‘ Family and Children upon his Mercy; and
 ‘ prayed that they might not suffer for their Fa-
 ‘ ther’s Fault.’ Thus far Bishop *Burnet*.

Remarks on
 Bishop *Burnet*’s
 Relation.

But how was *Argyle*’s Character raised by this Trial, when our Author himself acknowledges, that many Instances were given of his acting publicly in the Rebellion, of his advising the Delivering up of King *Charles I.* to the *English* Rebels at *Newcastle*, of his opposing the raising an Army to rescue the King in 1648, and of his Commanding the *Western Fanatics*, the most dangerous and inveterate of all the *Scotish* Rebels? His Barbarity to the King’s Friends, murdering them in cold Blood, and his Concurrence with *Cromwell*, and the Usurpation, in all their Measures, was also proved, and even his proclaiming *Cromwell* Protector, and sitting in his Mock Parliament. The Defence the Marquis made might be as good as the Case would bear, and he might shew his Skill in Fencing, as *Echard* hath it; but Treasons and Rebellion, and premeditated Murders, Baseness and Ingratitude to the Prince, whose Minister he was, and from whom he had accepted Honours and Preferments, will hardly raise his Character with any but *Scots Presbyterians*, or the Disciples of that Enemy of Monarchy and Episcopacy, Dr. *Gilbert Burnet*.

Echard’s Ac-
 count of *Ar-
 gyle*.

Mr. *Echard*, in his last Edition of the *English* History, p. 629. tells us, That Thirty thousand Pounds Sterling were paid to *Argyle*, and Fifteen Thousand more to his Friends, as a Reward for their Service in delivering up the King to the *English* Rebels at *Newcastle*. The same Author says, p. 793. that it was proved at his Trial, That he

he dissuaded the *Presbyterians* both in *Scotland* and at *London*, from praying for the King, for that God had rejected him; and that he said, If all were to do, that he had done, he would do it over again. And we find in the Earl of *Clarendon's* History, Vol. 3. p. 447. 8vo. Edition, That all Men complained of the Marquis of *Argyle*, who prosecuted the King's Friends with the utmost Malice; and surely there was as little Reason to complain of any Hardships in this Trial, as of the bringing so notorious a Rebel to Justice at all: He was tried before the Parliament of that Kingdom, who were well apprized of his Actions and Designs; and among whom he did not want Friends, who could, and actually did say all that could be urged in his Defence, and he had the best Counsel in *Scotland* assigned him; the Court were also so indulgent, as to allow him the Benefit of those Acts of Indemnity that passed in the Years 1641 and 1651. (though both were extorted from the Crown) and confined themselves only to such Facts as the Marquis had been guilty of after the Year 51; nay, it appears that almost the sole Question was, *Whether his Compliance with the Usurpation after the Year 51, was forced, or voluntary and malicious?* Our Author himself acknowledges, that it was so evidently proved to be voluntary and malicious, by Letters of his own writing, that when they were produced, his Friends had not one Word to say in his Behalf, but withdrew; and he was thereupon condemned to be guilty of High Treason: And the Government were still so much more merciful to *Argyle*, than he and his Party had been to *Montrose*, that they allowed him a considerable Time between his Sentence and his Execution, and let him have the Honour of being beheaded, instead of hanging him on a Gallows thirty Foot high, or loading him with such Reproaches, as those meek Saints had loaded the gallant Marquis of *Montrose* withal not long before: Notwithstanding, *Argyle* continued to the last to speak highly in Justification of the Covenant, calling it *The Cause and Work of God,*

God, and prophesying of the sad Times that were to follow, and exhorted all Men to adhere to the Covenant, and not sin against their Consciences.

This is the Man whom our Author thinks had great Injustice done him, and whose Innocence could never have been called in Question, (as he suggests) if the Malice or Covetousness of his private Enemies had not drawn this Prosecution upon him; which is an Observation we might have expected from a *Cameronian* or a *Field-Conventicler*; but the greatest of our Author's Enemies could never have suggested any Thing more unbecoming a Bishop of the Church of *England*; nor could any Man have believed such Animadversions should have proceeded from Dr. *Burnet*, if he had not left them under his Hand. *Remarks on Bishop Burnet's History of his own Times*, p. 473.

Further Reflections on this Trial.

It might be thought strange, that the Marquis of *Argyle*, and the *Campbells*, should plead his Majesty's Authority for destroying his own People, and all the other Outrages they committed on the Royalists, if it were not notorious how they obtain'd it, from all the Histories of those Times; namely, by compelling his Majesty when they invited him to *Scotland*, and had him in their Power, to confirm and ratify all their Treasonable Practises; which if he refused, they gave him to understand, they would deliver him up into the Hands of his Enemies: And his Majesty, by the Advice of his Friends, though contrary to his own Judgment, did sign many Things, for which the Persons who pressed him to it ought to have lost their Heads: However, we find his Majesty did allow this Gentleman the Benefit of the Statutes he pleaded, how violently and unreasonably soever the Confirmation of them was extorted from him, or his Royal Father; and insisted only on those Acts of Rebellion he had committed since the Year 1651, and even from that Time, had not his Compliance with the Usurpation been proved to be *voluntary* and *malicious*, he had never been called in Question for it. Bishop *Burnet*, indeed, suggests that this could have been

been proved only by his Letters to General *Monk*, but still admits *it was sufficiently proved*, nor was there one dissenting Voice in the Parliament when he was condemned; those who were his Friends had nothing to offer in his Defence, but chose to absent themselves on that Occasion from the House: And sure the Bishop must be extreamly weak himself, or imagine the World he would impose upon to be so, when he says, The Marquis's Affection for the Usurper *Cromwell*, and the King's Enemies both in *Scotland* and *England*, could only be proved by his Letters to General *Monk*, when the constant Tenor of the Marquis's Actions shew, and all Histories that mention him, either Friends or Foes, unanimously agree, that he was the most active and implacable Enemy the Royalists had in the Three Kingdoms.

I shall conclude with this Observation, That whoever the Anonymous Writer of this Trial was, he has given us neither the Depositions of the Witnesses, nor the Speeches that were made in Parliament against him, any more than Bishop *Burnet* and the rest of his Friends have done; from whence it may be rationally concluded, they were conscious that these would have been a further Evidence of his Guilt, or they would not have concealed them.

On the 27th of *May*, the Day appointed for his Execution, he came to the Scaffold in a very solemn, but undaunted Manner, accompanied with many of the Nobility, and some Ministers, when he spake as follows:

' Many will expect that I speak many Things,
' and according to their several Opinions and Dis-
' positions, so will their Expectations be from me,
' and Constructions of me; but I resolve to dis-
' appoint many, for I come not hither to justify
' my self, but the Lord, who is Holy in all his
' Ways, and Righteous in all his Works, holy and
' blessed is his Name; neither come I to condemn
' others; I know many will expect that I will
' speak against the Hardness of the Sentence pro-
' nounced against me, but I will say nothing to it;
' I bless

The Marquis's
Speech at his
Execution.

Page 389.

‘ I bleſs the Lord, I pardon all Men as I deſire to
 ‘ be pardoned of the Lord my ſelf; let the Will
 ‘ of the Lord be done, that is all that I deſire.

‘ I hope you will have more Charity to me
 ‘ now, than ye would have had at another Time,
 ‘ ſeeing I ſpeak before the Lord, to whom I
 ‘ muſt give an Account very ſhortly. I know
 ‘ very well that my Words have had but very lit-
 ‘ le Weight with many, and that many have miſ-
 ‘ taken my Words and Actions both; many have
 ‘ thought me to be a great Enemy to thoſe great
 ‘ Works that have of late been brought to paſs.
 ‘ But do not miſtake me, good People, I ſpeak it
 ‘ in the Preſence of the Lord, I enter’d not upon
 ‘ the Work of Reformation with any Deſign of
 ‘ Advantage to my ſelf, or Prejudice to the King
 ‘ and his Government, as my latter Will, which
 ‘ was written 1655, and thereafter delivered to a
 ‘ Friend, (in whoſe Hands it ſtill remaineth) can
 ‘ ſhow. As for thoſe Calumnies that have gone
 ‘ abroad of me, I bleſs God I know them to be
 ‘ no more; and, as I go to make a Reckoning to
 ‘ my God, I am free as to any of thoſe concerning
 ‘ the King’s Perſon and Government; I was real
 ‘ and cordial in my Deſires, to bring the King
 ‘ home, and in my Endeavours for him when he
 ‘ was at home; and I had no Correſpondence with
 ‘ the Adverſaries Army, nor any of them, in the
 ‘ Time when his Maſteſty was in *Scotland*; nor had I
 ‘ any Acceſſion to his late Maſteſty’s horrid and
 ‘ execrable Murder, by Counſel or Knowledge of
 ‘ it, or any other manner of Way; this is a Truth,
 ‘ as I ſhall answer to my Judge. And all the
 ‘ Time his Maſteſty was in *Scotland*, I was ſtill
 ‘ endeavouring his Advantage, my Conſcience
 ‘ beareth me witneſs in it. So much to that Par-
 ‘ ticular. And (turning about, he ſaid) I hope
 ‘ Gentlemen you will all remember theſe.

‘ I confeſs many look on my Condition as a
 ‘ ſuffering Condition; but I bleſs the Lord, that
 ‘ he that hath gone before me hath trod the
 ‘ Wine-Preſs of the Father’s Wrath, by whoſe
 ‘ Sufferings I hope that my Sufferings ſhall not be
 ‘ eternal.

‘ eternal. I bless him that hath taken away the
‘ String of my Sufferings: I may say that my
‘ Character was sealed to Day; for the Lord hath
‘ said to me, *Son, be of good cheer, thy Sins are*
‘ *freely forgiven thee*: And so I hope my Suffer-
‘ ings shall be very easy. And ye know the Scrip-
‘ ture saith, *the Captain of our Salvation was*
‘ *made perfect by Sufferings*.

‘ I shall not speak much to those Things for
‘ which I am condemned, lest I seem to con-
‘ demn others; it is well known, it is only for
‘ Compliance, which was the Epidemical Fault of
‘ the Nation; I wish the Lord to pardon them:
‘ I say no more.

‘ There was an Expression in those Papers pre-
‘ sented by me to the Parliament, of the Conta-
‘ gion of those Times; which may by some be
‘ misconstrued, as if I intended to lay an Impu-
‘ tation upon a Work of Reformation; but I de-
‘ clare that I intended no such Thing, but only re-
‘ lated to the Corruptions and Failings of Men,
‘ occasioned by the prevailing of the Usurping
‘ Powers.’ At this he turned, and took them all
Witnesses.

‘ Now Gentlemen, concerning the Nation, I
‘ think there are three sorts of People that take
‘ up much of the World and of this Nation. There
‘ is, 1st, The openly profane. And truly, I may
‘ say, though I have been a Prisoner, I have not
‘ had mine Ears shut; I hear assuredly, that
‘ Drinking, Swearing, Whoring, were never more
‘ common, never more countenanced, than now
‘ they are. Truly, if Magistrates were here, I
‘ would say to them, if they lay forth their Power
‘ for glorifying God, by restraining this, they
‘ should fare the better; if they continue in not
‘ restraining, they shall fare the worse. I say no
‘ more; but either let People shun Profanity, and
‘ Magistrates restrain it, or assuredly the Wrath of
‘ God shall follow on it. 2. Others are not open-
‘ ly profane (every one will not allow that) but yet
‘ they are *Gallios* in the Matter; if Matters go
‘ well as to their private Interest, they care not
Vol. VII. S whether

' whether the Church of God sink or swim : But
 ' whatever they think, God hath laid Engage-
 ' ments upon *Scotland* ; we are tied by Covenants
 ' to Religion and Reformation ; those that were
 ' then unborn are yet engaged, and in our Bap-
 ' tism we are engaged to it. And it passeth the
 ' Power of all the Magistrates under Heaven, to
 ' absolve them from the Oath of God ; they de-
 ' ceive themselves, and it may be, would deceive
 ' others that think otherwise. But I would ca-
 ' veat this, People will be ready to think this a
 ' kind of Instigation to Rebellion in me ; but they
 ' are very far wrong, that think Religion and
 ' Loyalty are not well consistent. Whoever they
 ' be that separate them, Religion is not to be
 ' blamed, but they. It's true, it is the Duty of
 ' every Christian to be Loyal, yet I think the Or-
 ' ders of Things are to be observed, as well as
 ' their Natures ; the Order of Religion, as well as
 ' the Nature of it. Religion must not be the
 ' Cockboat, it must be the Ship. God must have
 ' what is his, as well as *Cæsar* what is his ; and
 ' those are the best Subjects that are the best
 ' Christians : And that I am look'd on as a Friend
 ' to Reformation, is my Glory.

3. ' There are another Sort that are truly God-
 ' ly ; and to them I must say what I fear, and
 ' every one hath Reason to fear, (it's good to fear
 ' evil.) It's true, the Lord may prevent it, but
 ' if he do not (and truly I cannot foresee any Pro-
 ' bability of it) Times are like either to be very
 ' sinning or very suffering Times ; and let Chri-
 ' stians make their Choice ; there is a sad Dilemma
 ' in the Business, sin or suffer ; and surely he that
 ' would chuse the better Part would chuse to suffer.
 ' Others that will chuse to Sin shall not escape
 ' Sufferings, they shall suffer, but it may be not
 ' as I do, (turning about and pointing to the
 ' *Maiden*) but worse ; mine is but Temporal, theirs
 ' shall be Eternal ; when I shall be singing they
 ' shall be howling. Beware therefore of Sin,
 ' whatever you are aware of, especially in such
 ' Times.

‘ Yet

‘ Yet I cannot say of my own Condition, but
 ‘ that the Lord in his Providence hath mind of
 ‘ Mercy to me, even in this World; for if I had
 ‘ been more favourably dealt with, I fear I might
 ‘ have been overcome with Temptations, as many
 ‘ others are, and many more, I fear, will be,
 ‘ and so should have gone out of the World with
 ‘ a more polluted Conscience, than through the
 ‘ Mercy of God now I have. And hence my Con-
 ‘ dition is such now, as, when I am gone, will be
 ‘ seen not to have been such as many imagined.
 ‘ It is fit God take me away before I fall into
 ‘ those Temptations that I see others are falling
 ‘ into, and many others I fear will fall; I wish
 ‘ the Lord may prevent it: Yet blessed be his
 ‘ Name, that I am kept both from the present
 ‘ Evils and Evils to come.’ Here he turned
 about a little and spoke some Words to Mr.
Hutchison, when turning again to the People he
 spoke as followeth: ‘ Some may expect I will re-
 ‘ grate my own Condition, but truly I neither
 ‘ grudge nor repine, nor desire any Revenge.
 ‘ And I declare I do not repent my last going up
 ‘ to *London*; for I had always rather have suffer-
 ‘ ed any thing, than lie under Reproaches as I
 ‘ die. I desire not that the Lord should judge
 ‘ any Man, nor do I judge any but my self; I
 ‘ wish, as the Lord hath pardoned me, so he may
 ‘ pardon them for this and other Things; and
 ‘ what they have done to me may never meet
 ‘ them in their Accounts. I have no more to say, Page 390.
 ‘ but to beg the Lord, that when I go away he
 ‘ would bless every one that stayeth behind.’

His last Words, immediately before he laid his
 Head on the Block, after his Doublet was off,
 were these. ‘ I desire you, Gentlemen, all that
 ‘ hear me this Day, to take Notice (and I wish
 ‘ that all who see me might hear me) that now
 ‘ when I am entring into Eternity, and am to
 ‘ appear before my Judge, and as I desire Salva-
 ‘ tion, and do expect Eternal Salvation and Hap-
 ‘ piness from him, from my Birth to my Scaffold,
 ‘ I am free from any Accession by my Knowledge,

‘ concerning Counsel, or any other Way, to his late
 ‘ Majesty’s Death: And I pray the Lord to pre-
 ‘ serve his present Majesty, and to pour his best
 ‘ Blessings on his Person and Government, and
 ‘ the Lord give him good and faithful Counsel-
 ‘ lers.’ Turning about to his Friends, he said,
 ‘ Many Christians may stumble at this, and my
 ‘ Friends may be discontented; but when Things
 ‘ are rightly considered, my Friends have no Dis-
 ‘ credit of me, nor Christians no Stumbling-block,
 ‘ rather an Engagement.

When he had done speaking, he took his Leave
 of his Friends very decently; and after some Time
 spent in his private Devotions, he was beheaded.

Page 390.

*The TRIAL of JOHN CROOK,
 ISAAC GREY, and JOHN BOLTON,
 Quakers, at the Old Baily, for refu-
 sing to take the Oaths of Allegiance
 and Supremacy, the 25th of June,
 14 Car. II. 1662. Related by John
 Crook.*

The Trial of
 Crook, and o-
 ther Quakers,
 for refusing the
 Oaths.

I Am ashamed that so wretched a Piece should
 be introduced into a Collection of State Trials.
John Crook does not only relate this Medley of
 Stuff upon his Memory, but tells us what he *in-*
tended to have said, as well as what he *thinks* he
 did say on this Occasion. He represents our Courts
 of Justice as acting in a tyrannical arbitrary Man-
 ner, and to be such Scenes of Confusion, that if
 we may believe him, the *Bear-Garden* it self is
 better governed. This must give a fine Idea of
 our principal Tribunals, to such as are not ac-
 quainted with the Justice and Regularity of their
 Proceedings, and especially to Foreigners, who
 finding these vile Pieces bound up with other
 Trials which were published by AUTHORITY,
 may imagine that this, and such as these, have
 the like Sanction; when in Reality, the Booksel-
 lers,

lers, who were the Editors of the two last Volumes, either added them to inhance the Price of the Book, or to cast a Slur on the Reigns in which these Transactions happened: However, since *John Crook's* wise Reflections on our Courts of Justice have crept into the *Folio Edition*, I shall take Notice of such of them, as I apprehend any ways material for the Instruction or Satisfaction of his Friends.

John Crook relates, That being in *John's Street, London*, about the 13th Day of the third Month, called *May*, with others of the People of God, who sate together, one *Miller*, a rude Man with a long Cane in his Hand, laid violent Hands on him and some others, without any Warrant, and with the Assistance of other People, carried them before Justice *Powel*, who the next Day sent them to the Sessions at *Hicks's Hall*: There they represented the Illegality of their Commitment, notwithstanding which, he, with *Grey* and *Bolton*, were sent to *New Prison*, and some Days after removed to *Newgate*, where they remained till they were brought to the *Old Baily*.

Here the Chief Justice demanded of *John Crook*, if he had taken the Oaths? *Crook* answered, He should not accuse himself, he had been in Prison six Weeks contrary to the Laws of the Land, which he challenged as his Birth-right; he stood at that Bar as a Delinquent, and desired his Accuser might be brought forth to accuse him, and then he should answer his Charge.

Chief Justice
Sir Robert Forster.

The Chief Justice told him, he was required to take the Oath of Allegiance, and when he had done that they would hear him as to the other Matter.

Crook alledged that they could not tender him the Oath in that Place, for he was brought thither as an Offender, and not to be made an Offender there, or to accuse himself, and then cited the 29th Chapter of *Magna Charta*, and the Petition of Right, &c. told the Judges they ought to be his Counsel, and not his Accusers, and instruct him

him in the Privileges the Laws afforded him as an *Englishman*.

The Chief Justice thereupon said, We sit here to do Justice, and are to tell you what is Law, and not you us: Therefore Sirrah, you are too bold.

Page 391.

Crook answered, *Sirrah* was a Word that did not become a Judge, and he ought not to threaten a Prisoner, but hear what he could say in his Defence, and hoped the Court would bear with him, if he was bold to assert his Liberty as an *Englishman* and a Christian: If he spoke loud, it was his Zeal for the Truth, and for the Name of the Lord: He was bold in the Name of the Lord God Almighty, the Everlasting *Jehovah*, to assert the Truth; let his Accuser be brought forth, and he was ready to answer any Court of Justice.

The Court told him he was to take the Oath which they tendred him.

Crook answered, That he had been imprisoned six Weeks, and desired to see his Accuser, that he might know the Cause, or be discharged by Proclamation, as he ought to be; that they ought not to put him upon accusing himself by asking him Questions.

The Court acquainted him, That they tendred him the Oath, as they might any other Man that was present, however he came there.

Crook replied, He was brought before them as an Offender, and questioned if they had Power to tender him the Oath in that Case; That if they would clear him of his Imprisonment, he would answer them as to the other Point; That he had kept a Conscience void of Offence both towards God and towards Man.

Hereupon one of the Judges said, Sirrah, leave your Canting.

Crook answered, Is this Canting, to speak the Words of Scripture?

The Court replied, It was Canting in his Mouth, though they were St. *Paul's* Words.

Crook said, They were the Words of Truth and Soberness in his Mouth, they being witnessed by him

him and fulfilled in him ; and demanded by what Law they tendered him the Oath ?

The Court said, By the 3d of King *James*, and called for the Statute Book ; they let him know that his first Refusal would be recorded, and then it would be tendered him again at the End of the Sessions, and on his second Refusal he would incur a *Premunire*, whereby he would forfeit his Estate, and be imprisoned for Life.

A second Refusal of the Oaths incurs a *Premunire*.

Then there was a Cry in the Court, *Take him away* ; whereupon *Crook* began to preach, saying, *Mind the Fear of the Lord God, that you may come to the Knowledge of his Will, take heed of oppressing the Innocent, for the Lord God of Heaven and Earth will openly plead their Cause, &c.*

On the 6th Day of the Week (being the next Day) he was brought into Court again, and the Chief Justice acquainted him, That they had given him Time to consider of it, and demanded again if he would take the Oath.

To which he answered as he had done the Day before, That he would give no Answer to that Question, till he knew for what Cause he had been imprisoned ; That they were to proceed according to Laws already made, and not to make Laws ; they were but the Ministers of the Law.

Page 392.

One of the Judges told him he was a saucy impudent Fellow ; would he tell them what was Law and their Duties ? And ordered the Clerk to read the Oath. *Crook* said, He appealed to the God of Heaven and Earth, who was Judge of Quick and Dead, before whom they should all appear to give an Account of their Deeds, who would judge whether they had done him Justice, &c.

Then some cried, Pull him away, and afterwards, Bring him again, and this they did several Times, like Men in Confusion and Disorder.

The same Day in the Afternoon *Crook* was brought to the Bar again, and having been indicted for not taking the Oath of Allegiance, on a second Tender of it, he was arraigned, and the Indictment read to him. After which, it was demanded, if he was Guilty or Not guilty.

Crook desired he might speak a few Words in Humility and Soberness, in regard his Estate and Liberty was at Stake, and he was like to be a Precedent for many more; he hoped they would not deny him the Benefit of the Law as an *Englishman*; he had some Reason to desire to know his Accusers, before he said any Thing to the Indictment.

The Court told him, He should have the Benefit of the Law as an *Englishman*, but must first answer Guilty or Not guilty, or he would incur a *Premunire*, and lose the Benefit of the Law, exposing his Person and Estate to great Hazards; and whatever Violence should be offered him, he would be out of the King's Protection.

In answer to which, *Crook* cited the Statute of the 28 *Edw. 3. 3.* and 42 *Edw. 3. 3.* which says, *That no Man should be imprisoned but according to the Law of the Land, &c.*

The Court told him, If he had been imprisoned wrongfully, he had his Remedy at Law, but he must now plead Guilty or Not Guilty.

Crook replied, They would draw him into a Snare by pleading, for he should immediately be deemed an outlawed Person, and out of the King's Protection; and how then could he have a Remedy for his false Imprisonment; That he dare not thus betray the Honesty of his Cause, and the Honest ones of this Nation, whose Liberty he stood for as well as his own; That he was not satisfied in his Judgment, or Conscience, he ought to plead to an Offence created by the Court themselves, before he was acquitted of the Cause for which he was brought Prisoner to that Bar; calling again for his Accusers.

Page 393.

The Court told him, The Indictment was his Accuser, and the Grand Jury had found him guilty, because he did not Swear, and that if he did not answer he would incur a *Premunire, &c.* That admitting he was brought by Force thither, they had Power to tender him the Oath, and if he did not take it, might commit him to Prison, and therefore his Imprisonment was now just.

Crook

Crook answered, That this kind of Practise of taking Men by Force, and imprisoning them, and then asking them Questions, the answering of which made them guilty, was not only unrighteous in it self, but against Law, and made one Evil act the Foundation of another, and that was his Case; but he should leave his Cause to the Lord God, who would plead for him in Righteousness. Then he demanded, Whether if he took the Oath now, they would tender it to him again, and so it might be tendered him To-morrow, and the next Day, and *ad infinitum*. Page 394.

The Chief Justice answered, That if he had once sworn, it might not be tendered to him again, unless he gave fresh Occasion.

Crook asked if this was the Judgment of the Court? To which it being answered it was, he said he had taken it when he was made a Freeman of London, and had on his Part administred no new Occasion for their tendering it to him since; consequently by their own Judgments they ought not to tender it him a second Time, for *de non apparentibus & non existentibus eadem Ratio est*. Here he was interrupted by a Shout of the Court.

The Judges told him, He must not think to surprize the Court with Criticisms, and draw false Conclusions from their Judgments; That, if there was a new Emergency, he ought to take it again: As for Instance; The King had been out of England, and was now come again; many had taken it thirty or forty Years before, yet this new Emergency required it again.

Crook demanded again if they would not stand to their own Judgments, that it ought not to be tendered to him a second Time, except on his Part he administred a new Occasion for it.

The Court replied, If he had taken it, he would not be admitted to make that appear, till he had pleaded Guilty or Not Guilty; and if he did not plead, it would be recorded, and Judgment given against him.

Then

Then he demanded a Copy of his Indictment before he pleaded, for he was advised by Counsel, that if he pleaded before he had a Copy of his Indictment, his Exceptions to it afterwards would be void.

The Court answered, He that told him so, did not deserve the Name of a Counsel; he must first plead what would not deprive him of the Benefit of excepting to the Indictment, and then he should have a Copy.

Crook replied, The Indictment was long and confused, and made up of some Things true and others false; That of what was true he confessed himself Guilty, but of that which was false, which was the Substance of the Indictment, he was not Guilty.

Page 395.
Pleads Not
Guilty.

The Court told him, That the Form was not to be regarded, and accepted this for a Plea of Not Guilty.

Then *Isaac Grey* was brought to the Bar, and the Oath tendered him, who answered, That he was wrongfully imprisoned, as *Crook* had done, and desired Time to consider of it. He was brought to the Bar again the next Day, with *Crook* and *Bolton*, and the Oath tendered him again; he said he did not know himself guilty of any Crime. To which the Court answered, The Law supposed him disaffected to the Government. *Grey* replied, The Law allowed no Man to be condemned on Suppositions, and affirmed in the Sight of God, That he was no Enemy to the King, or any Man living: But at length both *Grey* and *Bolton* pleaded Not Guilty.

The 7th Day of the Week, being *Saturday*, the Prisoners were brought to the Bar, and a Jury impanelled, consisting of Soldiers and People who had dragged them out of their Houses and Meetings, as *Crook* relates.

Crook moved, That they might have Time till next Sessions to Traverse the Indictment, and Counsel assigned for their Defence, for they had no Copy of their Indictment till this Morning,
and

and consequently no Opportunity of advising with Counsel upon it.

To which the Court answered, They had had Time enough given them, and they should have no more.

Crook replied, That if one was indicted for a Trespass, he would have Liberty to Traverse it till the next Sessions, and therefore hoped this would not be denied them, especially since they were like to be made a Precedent. Page 396.

The Court thereupon observed, That there was no Matter of Law in the Case, that it was only a Matter of Fact, Whether they had refused the Oath or not, that was the Point in Issue.

Crook answered, He hoped they would not surprise them, and then they all cried out, Let us have Justice, and let not the Jury be sworn till we are first heard: This occasioned a great Noise and Confusion in Court, some crying, Take them away, others, Let them alone; others, Go on and swear the Jury; which the Cryer, in this Uproar and Confusion seemed to do: Then all the Prisoners cried out, Justice and Liberty till the next Sessions. The Noise in the Court was great, and the Commands of the Judges to their Officers various; some cried, Take them away, others, Let them alone, others, put them into the Bail-Dock, where the Felons used to stand; and there they were forced in; and during this Hurly-burly and Confusion, some Witnesses of their Refusal to take the Oath, were sworn, and others refused to testify their Refusal (which they never positively did.)

In the mean Time one of the Prisoners began to preach, magnifying the Presence and Love of God to himself, exhorting the People to mind his Fear, and be acquainted with God: Whereupon the Executioner was ordered to stop his Mouth, which was done; then the other two cried out, Will you not give us Leave to speak for our selves; we except against some of the Jury as our Enemies, who commanded us to be pulled out of our Meetings

Meetings contrary to Law; and shall these be our Judges?

The Court answered, They should have objected to them before they were sworn, and directed the Jury to go together, and find whether the Prisoners had refused the Oath or not. Then the Prisoners cried out again, Justice, Justice, and their Mouths were ordered to be stopped, which the Executioner did with a dirty Cloth, and endeavoured to gag *Crook*, who cried out, This is to deal worse with us than *Pilate* did with Christ, you might as well have caused us to be murdered before we came hither, &c. They were told, that if they would hear the Court, the Court would hear them: But according to *Crook*, there was such Noise and Confusion, that nothing could be heard.

Page 397.

Prisoners Defence.

After Silence was obtained, *Crook* desired to speak a few Words as to Matter of Law and Matter of Conscience. As to the Statute they were indicted upon, he observed that it was made against Papists, and occasioned by the Powder Plot: However, they (the Papists) were at Liberty, while the Prisoners (who were Protestants) were destroyed, as much as in them lay: As to Conscience, it was a tender Thing; they had known what it was to offend against it, and therefore dare not break Christ's Commands, who had said, *Swear not at all*, and the Apostle *St. James*, said, *Above all Things my Brethren swear not*. Here the Executioner was ordered to stop his Mouth, and the Jury said something: *Crook* supposes they gave in their Verdict, for they were fit for that Purpose, they were laying their Heads together before the Prisoners had said any Thing in their Defence.

The Sentence.

After which, the Recorder taking a Paper in his Hand, read to this Purpose, (*viz.*) *The Jury for the King do find, That John Crook, &c. are guilty of refusing to take the Oath of Allegiance, for which you do incur a Premunire, which is the Forfeiture of all your real Estates during Life,* and

and your Personal Estates for ever, and you to be out of the King's Protection, and to be imprisoned during his Pleasure. And this is your Sentence.

John Crook answered, But we are still under God's Protection. Then the Court adjourned, and the Prisoners were remanded to Newgate.

The TRIAL of Mr. SAMUEL ATKINS, at the King's Bench Bar, for being accessory to the Murder of Sir Edmundbury Godfrey, the 8th, 10th, and 11th of February. Hill. 31 Car. II. 1678-9.

THE Prisoner, *Samuel Atkins*, of *St. Mary le Strand*, in *Com' Midd' Gent.* on the 8th of *February*, was brought from *Newgate* to the *King's Bench Bar*, to be arraign'd.

The Indictment sets forth, That whereas on the Morrow of the Purification of the Blessed Virgin, before the King at *Westminster*, by the Oath of Twelve Jurors, sworn to enquire for our Sovereign Lord the King, and the Body of the said County, *Robert Green*, late of the Parish aforesaid, Labourer, *Henry Berry*, late of the same Parish and County, Labourer, *Laurence Hill* of the same, Labourer, ——— *Girald*, late of the same Parish, Clerk, *Dominick Kelly*, late of the same, Clerk, and *Philibert Vernalt*, late of the same Parish and County, Labourer, were indicted, for that they not having the fear of God before their Eyes, &c. did on the 12th Day of *October*, 30 *Car. II.* at the Parish of *St. Mary le Strand* aforesaid, in the County of *Middlesex* aforesaid, in and upon the Body of *Sir Edmundbury Godfrey*, Knight, feloniously, and of their Malice aforethought, make an Assault; and that he, the aforesaid *Robert Green*, a certain Linen Handkerchief of the Value of Six-pence, about
the

The Indictment
as Accessary to
the Murder of
Sir Edmundbu-
ry Godfrey.

Page 398.

the Neck of the said Sir *Edmundbury Godfrey* did fasten, and therewith choak and strangle the said Sir *Edmundbury Godfrey*, of which, he then and there instantly died; and that the said *Henry Berry*, *Laurence Hill*, ——— *Girald*, *Dominick Kelly*, and *Robert Vernalt*, then and there of their Malice aforethought, were present, aiding, abetting, and comforting the said *Robert Green*, to kill and murder the said Sir *Edmundbury Godfrey*, against the King's Peace, his Crown and Dignity: And that the Prisoner, the said *Samuel Atkins*, at or upon the said 12th Day of *October*, and divers Days and Times before, did counsel and abet the said *Robert Green*, *Henry Hill*, &c. to commit the said Murder; and upon the said 12th Day of *October*, and divers Times afterwards at the Parish aforesaid, knowing the said Murder to have been committed, did harbour, comfort and maintain the said *Robert Green*, *Laurence Hill*, &c. against the King's Peace, &c. To which Indictment the said *Samuel Atkins* pleaded *Not Guilty*.

Samuel Atkins: I desire the several Examinations taken in this Business, may be produced at my Trial.

Sir *W. Scroggs*. *Lord Chief Justice*: That must be left to Mr. Attorney, who is to take care of the King's Evidence.

Samuel Atkins: Some of them were taken before Mr. Recorder.

Sir *G. Jefferies*. *Mr. Recorder*: Those that were taken before me shall be brought.

Lord Chief Justice: Do you know nothing of this Business, that you would have all the Evidence brought against you.

Samuel Atkins: I know nothing of it.

Lord Chief Justice: Are you a Papist?

Samuel Atkins: No, I never was one, and I hope never shall be; I have laid these sixteen Weeks in Prison, and earnestly desire my Trial.

Lord Chief Justice: You shall be Tried as soon as we can; we must try others (*Green*, &c.) on Monday,

Monday, and if there be Time afterwards, you shall be tried then.

On Monday the 10th of February, after the Trial of Green, Berry, and Hill was over, Samuel Atkins was brought to the Bar, and the Court demanded if he had Bail ready, because the Term was near an End, and his Trial could not come on yet. He answered, he was prepared for his Trial, but not with Bail; and that he had many Witnesses, whose Business would call them abroad if his Trial was put off: Whereupon his Trial was ordered early the next Morning.

On Tuesday the 11th of February, Samuel Atkins being brought to the Bar, Mr. Attorney General informed the Court, that there was another Indictment formerly brought against Mr. Atkins, as Principal, on which he desired the Prisoner might be arraigned and discharged, before his Trial.

Sir William Jones.

Page 399.

That Indictment set forth, That the said Samuel Atkins, together with ——— Welch and ——— Lefaire, did on the 12th of October, 30 Car. 2. at the Parish of St. Clement's Danes in Com. Midd. assault the said Sir Edmundbury Godfrey, and that the said Samuel Atkins a certain Linen Cravat about the Neck of the said Sir Edmundbury Godfrey did fasten, and therewith choak and strangle him, of which he instantly died; and that the said Welch, and Lefaire, were then and there aiding, abetting and comforting him, and so the said Sir Edmundbury Godfrey was murdered by them, against the King's Peace, his Crown and Dignity, &c.

The Indictment as Principal in the Murder.

To this Indictment Samuel Atkins pleaded Not Guilty, and a Jury was sworn.

Mr. Attorney General: My Lord, I am informed the Prosecutors have not sued forth a *Venire facias* upon this Indictment as Principal, and therefore the Jury cannot enquire of it; our Writ is only for the Indictment as Accessary.

Clerk of the Crown: If you make the Writ *de quibusdam Feloniis & Accessariis*, and seal it anew, which may be done presently, the Seal being

Page 400.

ing in the Hall, it will do for both; which was done accordingly; and then the same Jury was charged with the Prisoner on the Indictment as Accessary, as had been sworn when he was charged on the other Indictment as Principal, viz.

*Sir John Cutler,
Michael Arnold,
James Partridge,
Thomas Casse,
Thomas Gostwick,
John Wells,*

*Ambrose Arnold,
Rainsford Waterhouse,
John Searle,
Richard Pagett,
William Waite,
Arthur Blythe.*

Mr. Serjeant *Stringer* having opened the Indictment against the Prisoner as Accessary, Mr. Attorney General afterwards declared, That they should not insist on his being a Principal in the Murder, and therefore he must be acquitted on that Indictment; but had not Mr. *Prance* made his Discovery, there were Circumstances, Probabilities and Presumptions, that might have endangered the Prisoner's being accounted a Principal. Then the Witnesses were called, and first

Mr. *Charles Atkins* was sworn.

Mr. Recorder: Pray tell what Discourse you had with the Prisoner at the Bar, and with one *Child*.

The Evidence. *Charles Atkins*: About the Beginning of *October* I came to speak with Mr. *Atkins*, the Prisoner, for whom I have a great Regard, though I am produced as a Witness against him: It was at *Derby-house* in *Channel-Row*; the Porter telling me he was within, I went up Stairs to the Office to him, and found him alone in the Study, where he generally writes; there was another Clerk in the Study next to him: I desired him to walk out into another Room, (designing to borrow some Money of him) and as we were discoursing about the Plot at the Window, he told me Sir *Edmundbury Godfrey* had very much injured his Master, (Mr. *Pepys*, Secretary of the Navy) and if he lived, would be the Ruin of him: But breaking off that Discourse he asked me after one *Child*, whom I had

had recommended to him to be Purser of a Ship; if he was a stout Man, or to be trusted with a Secret, and bid me send him to his Master (*Pepys*) when I saw him; but that he should not ask for the Prisoner when he came thither; and accordingly I sent *Child*, who told me he had been there, and would have engaged me to join in the Murder of a Man, but said nothing of Mr. *Pepys*: I utterly deny'd to join in any Murder, and heard no more of him a good While; but some Time after he met me, and said, if I would not join in it, I should have an hundred Pounds for concealing it; but if I reveal'd it, I should not out-live it.

Samuel Atkins: Pray Mr. *Atkins*, was there any Body by, when you came to me. Page 402.

Charles Atkins: There was another in a Study hard by.

Samuel Atkins: Was it Mr. *Lewis*.

Charles Atkins: I think it was, I cannot exactly tell.

Mr. *Bedlow* sworn.

Mr. Recorder: Pray Sir, will you tell the Court, whether you were in the Room where Sir *E. Godfrey's* Body lay, and what Company was there.

Bedlow: *Le Faire* having acquainted me, That such a one was murder'd, and how they intended to dispose of his Body; I came to *Somerset-house*, and ask'd him who were to be concern'd in carrying him off; he told me it was a Gentleman, one Mr. *Atkins*; I thought it might have been *Charles Atkins*, whom I had known several Years; when I came into the Room, there were a great many People, and some of their Faces I saw. I ask'd a young Gentleman, whether his Name was not *Atkins*, and if he was Mr. *Pepys's* Clerk, who answered, Yes, and said I have seen you often at my Master's House. There was little Light, and the Man was one I was not acquainted with. And now I am upon one Gentleman's Life, I would not be guilty of a Falshood to take away another's; I do not remember he was such a Person as the Prisoner is: He had a more manly Face, and a Beard.

Lord Chief Justice : So you rather think it was not he, than that it was.

Bedlow : I cannot say it was he, nor I could not at first: It might be Somebody that assum'd his Person to put me off.

Mr. Recorder : Pray what Discourse had you about any Commission.

Bedlow : I had often been with Captain *Ford* at Mr. *Pepys's* about his Commission, and desir'd to speak with Mr. *Pepys*, or Mr. *Atkins's* Clerk, but could never find either of them at home, and therefore when I met that young Gentleman at *Somerset-house*, I ask'd him whether he was Mr. *Pepys's* Man, and he told me, Yes.

Mr. Recorder : What did he tell you besides.

Bedlow : That was all the Discourse we had.

Thomas Walton sworn.

He depos'd, That the Prisoner was his Scholar; That he appointed to meet him at *Mount Horeb*, a publick House, on the 12th of *October*, the Day Sir *E. Godfrey* was murder'd; but the Prisoner did not come: To which the Prisoner answer'd, He had forgot the Appointment, but could prove where he did dine that Day, and desir'd Mr. *Walton* might testify, whether he were not a Protestant: To which *Walton* answer'd, He knew him to be a zealous Protestant, and that his Father and Mother were Protestants. Then the Prisoner was directed to enter upon his Defence.

The Prisoner's
Defence.

Samuel Atkins : My Lord, this Gentleman, Mr. *Atkins*, who hath brought this Accusation against me, is one I have kept from perishing; I was instrumental in getting him out of Prison.

Lord Chief Justice : You mistake, he does you no Mischief at all; all he has said is nothing to the Purpose.

Samuel Atkins : I protest before God Almighty, I know nothing of any such Discourse with him, as he mentions.

Mr. Justice Dolben : But what say you to Mr. *Bedloe's* Evidence: Did you see the Body of Sir *E. Godfrey* at *Somerset-house*.

Samuel

Samuel Atkins: No, my Lord; I am so far from that, that in all my Life I was never in the House.

Lord Chief Justice: Then call a Couple of Witnesses to prove where you were that *Monday-Night*, the 14th of *October*, and you need not trouble your self any further.

Then Capt. *Vittles*, Commander of one of the King's Yachts, was call'd:

He depos'd, That he had known Mr. *Atkins*, the Prisoner, fourteen Years; That he was with him on *Monday* the 14th of *October*, till late at Night, as he recollected by several Circumstances; for being commanded by the King to carry over several Officers to *Antwerp*, he return'd back from thence to *Greenwich* on the Sixth of *October*, which was *Sunday*, and that on *Monday* the Seventh he went on Shore, and gave an Account to the Secretary (of the Admiralty, Mr. *Pepys*) of his Voyage; That on the *Monday* following he came up again about eleven o'Clock, and met with the Prisoner, Mr. *Atkins*, at his Master's, the Secretary's Office; and Mr. *Atkins* told him, he had a Couple of Friends that desir'd to see a Yacht; and if the Deponent would go down, he would come down too, and bring his Friends by and by; That the Deponent went before and prepar'd the Yacht for their Reception, and got ready such Provisions as he had; and about half an Hour after Four, Mr. *Atkins*, with his two Friends, came on board him; That having a Parcel of good Wine lately come over, they drank pretty hard till after Ten at Night, and Mr. *Atkins* was pretty much in drink; That he order'd his Men to get ready a four-oar'd Boat that belong'd to the Yacht, and set the Company on Shore where they pleas'd; That the next Day his Men told him, they had set Mr. *Atkins* and his Friends on Shore at *Billingsgate*, because the Tide run so strong that they could not get through Bridge; That the Tide flow'd that Night till twelve Minutes past Ten, so that it must be near half an Hour pass'd Ten when they went away.

Page 405.

The TRIAL of SAMUEL ATKINS,

Lord Chief Justice: Mr. *Bedlow*, What Time of the Night was it when you were at *Somerset-house*.

Bedlow: It was betwixt Nine and Ten.

Mr. Justice Wild: The Person you spoke withal was very sober, Was he not?

Bedlow: Yes, very sober, my Lord.

Lord Chief Justice: Then call another Witness, one of your Men, and we have done.

Capt. Vittles: Give the Word for the Boatswain, *Tribett*.

Lord Chief Justice: Did the Women drink with you?

Capt. Vittles: Ay, and drink to us too my Lord.

Tribett appear'd.

Lord Chief Justice: Whither did you carry Mr. *Atkins*, when your Captain commanded you to set him on Shore.

Tribett: To *Billingsgate*; it was about half an Hour pass'd Eleven when we came there; when we went from the Yacht, it was about half an Hour pass'd Ten.

Lord Chief Justice: What Day of the Week was it?

Tribett: It was on a *Monday*.

Lord Chief Justice: You need not trouble yourself any more.

Mr. Attorney General: My Lord, I desire the Company may not go away with a Mistake, as if the King's Evidence was disprov'd.

Lord Chief Justice: No, not in a Tittle; I will tell you how it did arise: It arose from a Jealousy of the Murder of Sir *E. Godfrey*. People were willing to lay hold of any Opportunity to find it out. Mr. *Bedlow* was told, such a Person should help him to carry away the Body, and hearing such a Name, thought it possible it might be such a one; and he owning himself to bear that Name, and to be Mr. *Pepys's* Clerk, when he gave in his Information; the People who were put into such Alarms as these, were very ready to catch at it: Therefore no Body was to blame for pursuing *Bedlow's*

low's Evidence: He said nothing then but what he says now, and that is nothing at all positive; which is all true, and yet Mr. *Atkins* doth appear to be a very innocent Man in this Matter.

Then the Jury having consulted together, brought the Prisoner in NOT GUILTY.

Clerk of the Crown: Harken to your Verdict: You say that *Samuel Atkins* is Not guilty of the Felony and Murder whereof he stands indicted, nor that he did fly for it; and you say that he is not guilty as Accessary to the Felony and Murder, whereof he stands indicted, nor that he did fly for it; and so you say all:

Omnes, Yes.

Lord Chief Justice: I should have been very glad, Mr. *Atkins*, that the Rest who have been condemn'd had been as innocent as you are; for if any Protestant had been guilty of such Things as these Priests provoke their Profelytes to at this Day, it would have griev'd me to the very Heart.

He is acquitted.

The TRIAL of SLINGSBY BETHEL, Page 406.
at the Bridge-house in Southwark, for an Assault and Battery on Robert Mason, at the Election of Members of Parliament for the Borough of Southwark, the 5th of October, 33 Car. II. 1681.

THE Indictment sets forth, That *Slingsby Bethel*, late of the Parish of *St. Olaves Southwark*, within the Town and Borough aforesaid, Esq; did, on the 12th Day of *March*, in the 33d Year of the King, in the Parish aforesaid, make an Assault and Battery on *Robert Mason*, Waterman, using many menacing and threatening Words, and saying to him the said *Robert Mason*, Sirrah, I will have your Coat pull'd off your back, to the great Terror and Damage of

The Trial of *Slingsby Bethel* for an Assault and Battery.

the said *Robert Mason*, &c. To which Indictment he pleaded *Not guilty*.

Page 407.

Mr. *Peaseley* and Mr. *Molloy* having open'd the Indictment, Mr. *Holt*, another of the King's Counsel, stated the Facts more fully; he said the Issue to be try'd was, Whether Mr. *Slingsby Bethel* was guilty of the Battery and the aggravating Words contain'd in the Indictment, or not? That in *March* last there was an Election for two Burgesses to serve in Parliament for that Borough, and *Robert Mason* was desir'd to come from *Lambeth*, to see if any of that Parish came to poll, which had no Right so to do. The Competitors were Sir *Richard How*, Capt. *Rich*, *Slingsby Bethel*, and *Edw. Smith*, Esqrs; That Mr. *Bethel*, at his Entrance into the Borough, shew'd what Inclination and Temper he came with, by the God-dammes and execrable Oaths in his Followers Mouths, against those who voted against him: That after a Poll was demanded, Mr. *Bethel* went off from the Place where he stood, and struck several Persons that were acting against him, and particularly this *Robert Mason*, over the Head with his Cane; and afterwards, knowing him to be the King's Waterman, said he deserv'd to have his Coat pull'd over his Ears; That had this Affront been to a single Person, it were not of so bad Consequence; but they were to take Notice of the Solemnity of the Occasion of the Meeting, and consider it was for the Choice of Parliament-men; and had it not been for the Prudence of the Waterman, in forbearing to strike again, God knows what the Effects might have been, what an Up-roar it might have occasion'd; but he had taken his Course in a legal Way against Mr. *Bethel*, who, though he was a great Man, and lately Sheriff of the City of *London*, and *Robert Mason* but a poor Waterman, he did not doubt an *English* Jury would do him Right.

Robert Mason was call'd.

The Evidence.

He depos'd, That as he was on the Steps, by the Door of the Artillery-ground, Mr. *Bethel* gave him several Blows, and struck him with his Cane;

Cane; That he gave him twenty Blows at least, and he knew not how many more; and hurt him on the Breast.

Arthur Adams call'd.

He depos'd, That there was a Tumult on the Stairs, and they call'd to him, being Constable, and when he came, Mr. *Bethel* and *Mason* were together, and a great Company follow'd them; whereupon he desir'd them to keep the Peace, but saw Mr. *Bethel* give him two or three Shugs, saying, Sirrah, I will have your Coat off your back, and *Mason* answer'd, Ay, and so you would my Master's, if you could: He depos'd also, That when *Bethel's* Party came into the Borough, they cry'd, No Abhorrrers; and he heard the Man that rode first swear; but he did not hear Mr. *Bethel* himself say any Thing then.

Thomas Walbroke call'd.

He depos'd, That he stood upon the Stairs, when Mr. *Bethel* pass'd by, and saw him thrust *Mason* down Stairs; That Mr. *Bethel* said, Sirrah, come down; *Mason* answer'd, I will come down when I see my own Time; I do no Body no hurt: That he did not see any Blows, but two or three Pushes on the Breast; he push'd *Mason* back: That *Mason* had the same Coat on he had then. Page 408.

Griffith Meade call'd.

He depos'd, That he saw Mr. *Bethel* give *Mason* a little push, but no Blows.

Thomas Smith call'd.

He depos'd, That as *Robert Mason* and he stood together, Mr. *Bethel* came round the Burying-place, and a Multitude of Persons with him; That he bid *Mason* come down the Steps, who answer'd, He would come when he saw his Time; Mr. *Bethel* said, If he would not come down, he would have his Coat pluck'd off his Back; and after many Words pass'd, Mr. *Bethel* push'd him on the Breast; and that if *Mason* had struck again, he believ'd Hundreds would have been slain, *Mason* being the King's Servant; and that he had the same Coat on then he had now.

Alexander Dory call'd.

He depos'd, That he saw *Bethel* give *Mason* some Pushes on the Breast, and said he would have his Coat off his Back, and that he had the same Coat then he had now, and no other.

Lawrence call'd.

He depos'd, That he saw the Persons who came with Mr. *Bethel*, hectoring and swearing at a strange Rate, but he did not hear *Bethel* himself swear; That when he came to *Robert Mason*, he bid him come down, who answering he would not, *Bethel* said, I will pull your Coat off your Back; and *Mason* reply'd, and so you would my Master's, if you could.

The Defen-
dant's Defence.

Mr. *Thomson* being of Counsel for Mr. *Bethel*, observ'd upon the Evidence, That *Robert Mason* himself was thorough-pac'd; That he had sworn to a great many Blows which his Witnesses could not, neither did their Evidence agree, some swearing to one Push, others to more, while he himself swears to twenty Blows; and admitting it were so, the Matter might be justify'd by the Occasion given: What would be a good Plea in an Action at Law, would be the same on pleading Not guilty in this Case: Mr. *Bethel* came here to the Choice of Parliament-men, and the Poll was appointed in the Artillery-house; there was a Fair of Stairs leading up to it, and the Manner of Taking the Poll was thus: First, to fill the House by that Door to the Stairs, and after they had voted, to let them out at another Door; That *Mason* and one *Sams*, a hectoring Carman, were set upon the Stairs, and when they found any Persons come up that were for *Bethel* and *Smith*, they abus'd them, and push'd them down the Steps, which Mr. *Bethel* being inform'd of, came out of the House, and spoke civilly to them, saying, Friends, What have you to do here; if you have not a Right to poll, come down from the Place, which *Mason* refusing, Mr. *Bethel* took him by the Hand, and led him gently down the Steps; so that if there was any Interruption at the Election, it proceeded from the other Party; and

and if that occasion'd this mighty Battery, it would be sufficiently justify'd by the Witnesses they should produce.

Nath. Travers, Constable, call'd.

He depos'd, That he was call'd out of his House, there being a Disturbance, and when he came to the Door of the Place, he saw *Robert Mason* throwing People from both Sides with his Elbows; and at the same Time a Report being carried to Sheriff *Bethel*, of a Person's Leg being broken, and a Man kill'd, he came to the Steps and took *Mason* by the Arm, saying, Pray Friend, What hast thou to do here, Hast thou a Right to poll, and desir'd him to go about his Business; Mr. *Bethel* said no more, he gave no Blow, nor was in any Passion; but others said, *Mason* was a rude Person, and deserv'd to have his Coat pluck'd over his Ears.

Benjamin Tarrant was call'd.

He depos'd, That he was on the Ground when Sheriff *Bethel* came, and he saw him with the Waterman, but no Blow given; and he was sure there was none.

Thomas Weeks call'd.

He depos'd, That he was at the Place all the Time, and there was nothing like a Blow given, only Mr. *Bethel* us'd such Words as the first Witness had testified.

Benjamin Gerrard call'd.

Page 410.

He depos'd, That he was in the Ground before Mr. *Bethel* came, That he saw the Waterman and one *Sams* thrusting the People down that seem'd to be for *Bethel* and *Smith*, and crying, *How* and *Rich*; That Mr. *Bethel* ask'd the Waterman, if he had any Right to poll, and bid him go about his Business, but that he did not strike one Blow.

Hatfield sworn.

He depos'd, That he saw two Men in Red Coats push down the People that poll'd for Mr. *Bethel*, and that he civilly desir'd them to come down and be gone, but there was not one Blow given.

Mr.

Mr. Molloy: Call *Lawrence* again, to shew *Mason* made no Disturbance.

Lawrence: I saw *Robert Mason*, and the Party with him, behave themselves very civilly; and the Disturbance that was, proceeded from the other Party.

Mr. Thomson then made his Observations on the Evidence produc'd by the Defendant Mr. *Bethel*: He said, That when People were in such a Crowd at an Election, if there were some Pushes given, this was not a sufficient Matter to ground an Indictment upon; they saw how *Mason* behav'd himself, crying out, *How* and *Rich*, and striking down all that came between *Sams* and him, so that they broke the Peace, and rais'd the Disturbance themselves; and in that Case, Mr. *Bethel*, or any Man, might have carry'd them before a Magistrate; That *Mason* had so over-done it, by swearing to twenty Blows, that he was not to be credited: His Witnesses only swore to two or three Pushes; and admitting it were so, Mr. *Bethel* was not the Person who begun the Disturbance; That his Witnesses had depos'd, he only came in a civil Manner, and led *Mason* down; and this was a justifiable Assault; the Nature of the Case requir'd it, and appeal'd to the Jury, Whether there was any Cause for this Indictment, or any Colour for them to find it.

The King's
Counfels re-
ply.

Page 411.

Mr. Holt, the King's Counsel reply'd, That eight Witnesses had sworn positively to the Battery, against which Testimony they had only produc'd some negative Witnesses, who did not see it; That he hop'd the Jury would be guided by Sense and Conscience, and not by the Spectators Humours and Apprehensions, that came there to hiss in a Court of Justice; and appeal'd to the Court, Whether in Matters of this Nature, one Witness for the Affirmative was not of more Value than many for the Negative; That *Mason's* Evidence was confirm'd by all the other Witnesses; That if one swears to ten Blows, another to Two, and another to Three, there was no Inconsistency in this;

this; they swore cautiously, every Man to as many as he saw; but *Mason* was the best Judge who felt them, how many Blows he receiv'd; in a Crowd, as this was, it could not be expected any Person should see them all.

As to the Point of Law, he did not understand by what Law a Man, who was Candidate at an Election, could beat one that stood in his Way: If any Man had beaten Mr. *Bethel*, he might have beaten him again in his own Defence, but here was no such Thing; and Mr. *Bethel* saw no Disturbance himself, but was inform'd of it, and so became too officious: Though he was Sheriff of *London*, he was not an Officer there; it was the Constable's Office to have seiz'd *Mason*, if he created a Disturbance; nor could the Constable do it, unless he saw the King's Peace broken; it is true, in a Crowd Men must jostle one another; and if one by Accident strike another, it is no Battery; but was it necessary for Mr. *Bethel* to thump a Man on the Breast, or beat him with his Cane? Was it necessary for Mr. *Bethel* to give a Man twenty Blows, or to pluck a Man's Coat of his Back at an Election? And if it was not necessary, it was not justifiable in Law; and it is fit that a Person who will do such Things should be made an Example.

Justice *Pyr*s, in summing up the Evidence, acquainted the Jury, as Mr. *Holt* had done, that one affirmative Evidence was more to be regarded in Law, than forty negative Witnesses in this Case; but so many having sworn in the Affirmative, and as many in the Negative, that they saw it not, he could not tell what to say to it, but left it to them.

Then the Jury went out, and in a very short Time return'd, and gave in their Verdict, That the Defendant was GUILTY.

The Counsel for Mr. *Bethel* thereupon moved in Arrest of Judgment, That no Indictment lay for the Words; for which Reason the Court stayed Judgment as to that Part of the Indictment, and gave Judgment only as to the Assault and Battery, for which they fin'd Mr. *Bethel* five Marks: Then
the

the Counsel for the King moved to have him taken into Custody till he paid his Fine; but he paid it immediately, and was discharg'd.

Page 412.

The Trial of
Sir P. Ward,
for Perjury.

The TRIAL of Sir PATIENCE WARD, Knt. at the King's Bench Bar, for Perjury at the Trial between the Duke of York, Plaintiff, and Thomas Pilkington, Esq; Defendant, on an Action upon the Statute De Scandalis Magnatum, 19 May, Paschæ 35 Car. II. 1683.

The Jury were,
Sir Thomas Bridges, Knt. Tho. Eaglesfield, Esq;
Henry Reynell, Esq; Edw. Maplesden, Esq;
Tho. Herriott, Esq; John Sharp, Esq;
Tho. Airsby, Esq; James Suckle, Gent.
Rich. Pagett, Esq; John Olinger, Gent.
John Foster, Esq; Rich. Fisher, Gent.

The Informa-
tion.

THE Information sets forth, That whereas the most illustrious James, Duke of York, had brought an Action upon the Statute *De Scandalis Magnatum*, against Thomas Pilkington, declaring, That whereas he was the King's only Brother, the said Pilkington, in the Hearing of divers of his Majesty's Liege Subjects, did speak these false and scandalous Words, *He hath burnt the City* (meaning the City of London), and is (meaning the said Duke) *come to cut our Throats*: The Information sets forth further, That the Defendant Pilkington pleaded Not guilty; and that upon the Trial of this Issue, Sir Patience Ward was produc'd as a Witness on the Behalf of Pilkington, and was then and there sworn to speak the Truth in the Premises; and that the said Sir Patience Ward did falsely and corruptly swear, and give in Evidence, That at the Time of the Discourse aforesaid, between the said Thomas Pilkington

Pilkington and divers of his Majesty's Subjects, there was no Mention of the said James Duke of York, or of cutting of Throats; and that before the said Pilkington came in, the Discourse about the Duke of York was over; and further, That the Duke of York was not named (Meaning at that Time when the Discourse aforesaid was had); whereas in Truth, at the same Time, there was Mention of Cutting of Throats; and before Mr. Pilkington came in, The Discourse concerning the Duke of York was not ended; and the said Duke of York was named at the Time when the Discourse aforesaid was had; so that the said Sir Patience Ward, in the Case aforesaid, did commit wilful and flat Perjury.

Mr. Attorney General having open'd the Information, Mr. Serjeant *Jefferies* enlarg'd upon it, and gave a State of the Case: He said the Crime the Defendant was charg'd with, was committed in that very Place, in the Face of the Court; and he thought, to the Admiration and Astonishment of all Persons that heard him swear at that very Time: He said this Matter was attended with Circumstances of Malice, which shew'd it was not a Slip in Evidence, but a malicious Act of Perjury; That upon his Royal Highness's Return from *Scotland*, and coming to *New Market*, the Lord Mayor of *London*, Sir *John Moor*, and some other Aldermen, propos'd to wait on him, and congratulate his safe Arrival from *Scotland*; and thereupon an Order was made at a special Court-Day, That the Lord Mayor and Aldermen should attend his Majesty, and desire his Leave to wait on his Royal Highness, and congratulate his late Arrival: And in order to this there was another Meeting of the Lord Mayor and Aldermen, in the Long Gallery or Anti-chamber to the Council-room at *Guild-hall*; and the Question being proposed, Whether they should wait on his Royal Highness, or not, Sir *William Hooker* or Sir *Henry Tulse*, answer'd, It was too late now to put that Question, for the Court had determin'd it; whereupon *Pilkington*, then Sheriff, to dissuade them

Sir R. Sawyer.

Page 413.

them from waiting on the Duke of York, said, *He hath burnt the City, and is now come to cut the Throats of our Wives and Children; for which Words Pilkington was try'd in that Court; and at that Trial Sir Patience Ward, without any Manner of Hesitation, but Boasting to have as good a Memory as any Man in England, positively depos'd, That the Duke of York was not named after Pilkington was there, and that the Discourse of the Duke of York was done before he came in, though he was caution'd at the same Time to have a Care what he swore, adding, I do positively say, there was not a Word of cutting Throats, to the Surprise not only of the Auditors, but even of those People who were concern'd in Affection for him: Then the Witnesses were call'd.*

Mr. Hatch sworn.

Page 414.
The Evidence
for the King.

He depos'd, That Sir Patience Ward did say, at Pilkington's Trial, *I do positively affirm, upon my Oath, That Pilkington did not come in till all the Discourse was over concerning the Duke of York: And that there being a Discourse about burning the City by the Papists, Pilkington said, He hath burnt the City; whereupon Sir Patience Ward took him by the Shoulder, saying, Explain your self, you mean Hubert, I warrant you; and he said Yes; That Sir Patience being ask'd, Whether any Thing of the Duke was named, he said No; and it being demanded if there was any Mention of Cutting of Throats, He did positively say, There was no Mention made of Cutting of Throats.*

Mr. Williams: Pray Sir, did you take the Words in Writing.

Mr. Hatch: I believe I might, I cannot positively tell.

Mr. Thomson: Have you your Notes here?

Mr. Hatch: I think I have not.

Mr. Pollexfen: Did Sir Patience Ward mention the Duke of York in his Evidence.

Mr. Hatch: He said there was a Discourse about going to St. James's, but not to the Duke.

Mr.

Mr. Polexfen: I desire he may repeat the Evidence he swore just before.

Mr. Hatch: Sir Patience Ward being examined on the Account of Mr. Pilkington, did say, That there was some Aldermen met in the matted Gallery in Guildhall, and smoaking a Pipe, there was a Discourse of waiting on the King and the Duke, pursuant to an Order of the Lord Mayor, the Day before; and being asked if Mr. Pilkington was present, he said, The Sheriffs were not present, but at the Court of taking Licences, in Guildhall, that there was a Discourse about burning the City by the Papists, and Mr. Pilkington said, Hath he burnt the City? upon that Sir Patience Ward took him by the Shoulder, and bid him explain himself: You meant Hubert, I warrant you, saith he; yes, saith Pilkington: And being asked whether there was any Discourse about the Duke of York, he said, No; and positively said that there was no Mention made of cutting Throats.

Mr. Boxton sworn.

He deposed that he returned the Jury at Pilkington's Trial; but being in the Gallery he could not hear well; only that Sir Patience Ward said he heard no Mention of cutting of Throats, though he could not say these were the very Words. Page 415.

Mr. Ashton sworn.

He said he thought he was pretty sure that Sir Patience Ward did depose positively, that the Duke of York was not named while Pilkington was by.

Mr. Wood sworn.

He deposed that he heard Sir Patience Ward give Evidence for Pilkington, and depose that the Duke of York was not named; and that the Discourse concerning the Duke of York, was over before Mr. Pilkington came in; and that there was no Mention of cutting of Throats.

Mr. Jones: Did he swear these Things positively, or as he believed or heard.

Mr. Wood: To the best of my Remembrance he clapt his Hand upon his Breast, and said positively,

tively, or upon my Oath; one of them he did say, I can't tell which.

Sir James Smith, Alderman, sworn.

Sir J. Smith: I do remember that Sir Patience Ward used that kind of Posture as they say, and did positively, or upon his Oath, say, that Mr. Pilkington was not there while they were discoursing concerning going to St. James's; for he did declare the Duke of York was not talked of; and I remember a very good Circumstance that he did swear so; for the Lord Chief Justice Pemberton applied himself to Sir Harry Tulse upon it; and I remember Sir Harry Tulse made answer, I am very sorry to say it, he was there all the while.

Sir William Rawsterne sworn.

He deposed that Sir Patience Ward did say that the Duke was not named when Pilkington was in the Room.

Sir John Peake sworn.

Sir J. Peake: I do remember that Sir Patience Ward laid his Hand upon his Breast, and said positively, or upon his Oath, one of them I am certain, that Mr. Pilkington was not by while the Duke of York was mentioned.

Sir Thomas Field.

I was upon the Jury, and I remember he swore the Duke was not named; and likewise that Mr. Pilkington was not in the Room when any thing was spoken relating to the Duke of York.

Sir Francis Butler sworn.

Sir F. Butler: I was Foreman of the Jury, and the Evidence Sir Patience Ward gave I thought we had Reason to observe; for the great Question was, Whether the Words related to the Duke of York, or no; for he swore they did not relate to the Duke of York, and was proving Alderman Pilkington was not in the Room while they discoursed of the Duke of York, and that the Duke of York was not named. We debated it after we went out of Court, and should have laid a little more Weight on his Evidence, if he had not said that

that when Sir *William Hooker* took some Exceptions at his Words, and ask'd, What do you mean? Sir *Patience Ward* then laid one Hand on Alderman *Pilkington's* Mouth, and, as I remember, t'other upon his Breast, and asked, What do you mean? and t'other answered *Hubert*; that made us believe his Evidence was to be laid by.

Mr. Serj. *Jefferies*: We have shewn what Words he swore, we will now prove that they are false.

Sir *Harry Tulse*, Alderman, sworn.

Sir *H. Tulse*: The Evidence I gave at *Pilkington's* Trial was this, That on the 10th of *April*, I won't be positive as to the Day, according to an Order of Court, we met at *Guildhall*; there was Sir *William Hooker*, Sir *Patience Ward*, Sheriff *Pilkington*, and my self; and *Pilkington* said, *he burnt our City, and is come, or will come* (one of these two Words) *to cut our Throats*. I was ask'd by the Court, what was the preceding Discourse, (whether made by Alderman *Pilkington*, or Sir *Patience Ward*, I cannot be positive) but it was concerning an Order of going to *St. James's*, or to the Duke of *York*. They were complaining of that Order, and seemed to me as if they would have it re-debated: I made answer, it was too late, for the Court hath agreed it; after which came these Words, *He hath burnt our City, and is come, or will come to cut our Throats*; but I did never hear the Duke of *York* named by Alderman *Pilkington* at all.

Mr. Just. *Jones*: Was the Duke named, or not. Page 417.

Sir *H. Tulse*: I can't positively say he was nam'd at that time, for the Debate was about the Order made to Congratulate the Duke of *York*, or of going to *St. James's*, one of them I am sure was named.

Ld. Ch. Justice: You heard the Expression of cutting of *Throats*; what did you apprehend he meant.

Sir *H. Tulse*: I must give my Opinion that it was the Duke of *York*; I think I was the Man that made answer, it was *Hubert* that burnt the City, because he was hanged for it.

Sir William Hooker, Alderman.

Sir W. Hooker : We met in pursuance of an Order made the Day before, to wait upon the King and Duke of York. *Sir Patience Ward* moved that we might consider the Business ; and answer was made, it was now too late ; whereupon *Pilkington*, standing at the End of the Table, said these Words, *Hath he burnt the City, and is he come to cut our Throats ?* upon this I replied, *Brother Pilkington*, thou art infinitely mistaken in this Point, thou may'st as well charge it upon a Child unborn, as upon him ; for the Duke of York was as careful in the Fire to preserve the City, in a Yard in *Coleman-street*, as any who was by was, though the Ashes came upon our Heads ; and I never knew a Man look more carefully than he did at the same time. I can't say that *Mr. Pilkington* made any Reply ; but there was something spoke of *Hubert*.

Mr. Attorn. General : Did you name the Duke of York.

Sir W. Hooker : I did name the Duke of York to *Pilkington*, after these Words were spoke.

Mr. Sol. General : Was it plain to you he meant the Duke of York.

Sir W. Hooker : I am not able to know other Men's Thoughts ; but certainly nothing could appear more plain.

Mr. Sol. General : Was the Subject Matter of the Discourse concerning the Duke of York.

Sir W. Hooker : About that and nothing else.

Sir Geo. Treby
Page 418.

Sir Patience
Ward's De-
fence.

Then *Mr. Recorder*, being Counsel for *Sir Patience Ward*, made his Remarks on the Evidence that had been given ; he observed that of all the Witnesses produced against the Defendant, only the first pretended to be a Penman, and he could not tell whether he Writ or no ; that they varied much among themselves : The Aldermen were very Cautious in swearing ; that it was a heinous Crime, and there should be no less Evidence to convict this Gentleman of it, than to convict him of any Crime that concerned his Life. The Jury ought to have plain Proof ; and if there were a
rash

rash Word, or a Mistake in a Person's Remembrance, it was not every Slip that would criminate a Man of Perjury; it must be a wilful and corrupt Forswearing against his Knowledge; nothing less was sufficient; and a Man's Words must be taken together. If there was any thing in his Evidence that did explain, limit or qualify it, it should be taken entire; he should have the Advantage of it in every Part: Whereas what these Witnesses fix'd upon him, was by culling and picking out Pieces. They don't pretend they were able to repeat the whole Evidence: That in the *Lady Carr's Case* in Chancery, she swears she never received Money of such a Man; and by a second Answer, that she received no Money after such a Time; and it was resolved that these should be taken together, and that it was no Perjury: That they insisted that the Words were not spoken as they were laid in the Information; for there they are charged to be spoken positively; whereas they were spoken with all imaginable Caution, *as he believed, to the best of his Memory, &c.* And if they had been spoken as they were laid, they were not Perjury. If it was a Mistake, or a rash Oath, it was not Perjury. Then, as to the Expression of *Cutting of Throats*, it is not agreed whether it be that he is come or will come; and one says *our Throats*, while another deposes it was *the Throats of our Wives and Children*. And then, as to the Duke not being nam'd, the Evidence he gave was, *that the Duke was not nam'd in his bearing*; that Sir *Patience Ward* Page 419. was a Man of good Reputation and Credit in the City, had born the Office of Lord Mayor and Sheriff of *London*; and it was not supposed a Man of his Quality and Credit would Perjure himself; this was a Crime for mean Persons.

Mr. *Blaney* sworn on Behalf of the Defendant. Page 420.

He deposed that he took Notes at *Pilkington's* Trial; and that then Sir *Patience Ward* said, *Upon the Oath I have taken, if it were the last Word I was to speak, I did not hear one Word of Cutting of Throats*; and that Sir *Patience* said

The Defendant's Evidence.

further, *That there was nothing mentioned of the Duke, but of St. James's, in his bearing.*

Mr. *Attorn. General*: *Blaney*, tell me positively what he said.

Blaney: He said not one Syllable of it, to my Memory.

Page 421.

Mr. *Attorn. General*: To what Question?

Blaney: Of the Duke's being not named.

Mr. *Serj. Jefferies*: Did you hear Sir *Patience Ward* speak, at that Time, any Words concerning a Law-Suit?

Blaney: It is not in my Notes.

Mr. *Attorn. General*: Can you swear any thing positively upon your Notes?

Mr. *Serj. Jefferies*: Did he swear positively to any one thing; and what I desire to be satisfied by Mr. *Blaney's* Notes; some Men can take Notes on one Side, and forget Things on t'other.

Blaney: I don't see the Word *positive*; I don't pretend to say I have written every Word.

Mr. *Serj. Jefferies*: But you pretend to write more than he said.

Sir *F. Winnington*: Is all that you writ true?

Blaney: *I verily believe it is true.*

Ld. Ch. Justice: Is that any Manner of Satisfaction? when he hath not taken all that was said, and so spoil'd the Sense by leaving out Words?

Richard Beaver sworn.

He deposed that at *Pilkington's* Trial, Sir *Patience Ward* did say, *To the best of his Remembrance the Discourse concerning his Highness the Duke of York, was over before Sheriff Pilkington came into the Room; and to the best of his Knowledge he did not hear any thing of cutting of Throats, and that my Lord Chief Justice said, You may thank God you have a good Memory.*

Page 422.

Ld. Ch. Justice: You say my Lord Chief Justice did commend his Memory for it; how came he to be praised for such a great Memory, when he said he did not remember any thing: Thou hast not laid thy Plot well together.

Mr. *Just. Jones*: Did you hear well?

Beaver:

Beaver: Yes, my Lord, I heard every Word he said; he got Honour by speaking Words against the Duke of York.

Mr. Serj. *Jefferies*: Upon your Oath do you remember the Word *positively*?

Beaver: Nothing at all positively.

Ld. Ch. Justice: Upon my Word your Memory must be commended.

Mr. Serj. *Jefferies*: Mr. *Beaver*, where do you live?

Beaver: I live in *Soape-Lane*.

Mr. *Williams*: He is an honest Man; he was commended when he was Church-warden.

Mr. Serj. *Jefferies*: Many a wise Man has been of that Employ.

Mr. *Crisp* sworn.

Mr. *Williams*: Can you say what Sir *Patience Ward* swore concerning cutting of Throats?

Crisp: Sir *Patience Ward* did say there was something said, that *he was come to burn the City*; but as to cutting of Throats, there was not a Word spoken, in my hearing, or to the best of my Remembrance; or something to that Purpose, I can't be positive.

Sir *F. Winnington*: Do you remember any thing that my Lord Chief Justice said to Sir *Patience Ward*'s Evidence?

Crisp: That I remember more than any other Particular: My Lord Chief Justice said to Sir *Patience*, recollect yourself; it is supposed by your Evidence, that you leave out these Words, either about the Duke of York's being named, or about cutting of Throats. Says, Sir *Patience*, I do speak it to the best of my Memory; says, Sir *Geo. Jefferies* upon that, or some other Time, Your Invention is better than your Memory.

Mr. Serj. *Jefferies*: Can you tell, upon your Oath, whether Sir *Patience Ward* swore any thing positively? Page 423.

Crisp: I don't know, I took no Notes; I cannot swear those Words were not spoken, but still it was in his hearing, or to the best of his Memory.

Mr. *Wright*, Parson of *Walthamstow* sworn.

Mr. *Holt*: Was you present at the Trial between his Royal Highness and Mr. *Pilkington*?

Wright: Yes, Sir, and I remember Sir *Patience Ward* was ask'd whether he heard any Words concerning killing, or cutting of Throats; and Sir *Patience* said, for killing, I heard that Discourse, but for cutting Throats he never mentioned.

Mr. *Williams*: Was it as he believed, or remembered?

Wright: He did believe he was not then present; he believed the Word *killing* was not spoke in Mr. *Pilkington's* Hearing.

Mr. Serj. *Jefferies*: Do you remember any Discourse concerning Sir *Patience's* having a Law-Suit.

Mr. *Wright*: When you made a Reflection on him, Sir *Patience* said, I hope, my Lord, you will not suffer me to be abused; for I never remember I was in any Court upon any Occasion of Law before.

Mr. Serj. *Jefferies*: Do you take it, upon your Oath, that he did give any Evidence positively?

Mr. *Wright*: I do not know what you mean by positively.

Mr. Serj. *Jefferies*: Directly or Categorically, or any Word you use.

Page 424.

Mr. *Wright*: The most of the Evidence that I heard was with cautionary Words, to the best of my Remembrance.

Mr. *Attorn. General*: Did he swear any thing indirectly?

Mr. Serj. *Jefferies*: Where does my Parson live, where do you live?

Mr. *Wright*: I am Minister of *Walthamstow*.

Mr. Serj. *Jefferies*: He hath heard the Word *killing*, that no Body heard before.

Colonel *Birch* sworn.

He deposed, that he observed at the Trial of *Pilkington*, that Sir *Patience Ward* generally spoke with Caution, as he believed, or remembered, but he did not hear much of the Trial.

Mr. Nor-

Mr. Northey sworn.

He depos'd, That Sir *Patience Ward* swore cautiously, as to what he heard of the Trial, but that was not much.

Mr. *Nelson* being sworn, depos'd to the same Purpose.

Mr. *Baker* being sworn, said, He apprehended Sir *Patience* to swear to his Hearing and Memory sometimes, but did not remember the particular Things he swore. Page 425.

Mr. *Bennet* being sworn, depos'd, That Sir *Patience* said, Not one Tittle was spoken in *Pilkington's* Hearing, or to that Purpose.

Sir *William Russel* sworn to his Character.

He depos'd, He had had Transactions with Sir *Patience* for considerable Sums of Money, and always found him an honest reputable Dealer.

Mr. *S. Jefferies*: Did you look upon him to be well-affected to the Government,

Sir *William Russel*: I am not to pass my Opinion on Persons in that Point.

Mr. *Attorney General*: Would he strain a Point to serve a Party?

Sir *William Russel*: I do not know, Sir.

Mr. *Just. Jones*: This Kind of Evidence weighs very little.

Mr. *Recorder*: 'Tis very improbable, that a Man who hath born so many great Offices, and hath represented the King in that of Lord Mayor, should be guilty of this.

Mr. *Attorney General*: If they talk of Reputation at large, we will call all the Court for the Reputation of our Witnesses.

Mr. *Johnson* sworn.

He depos'd, That he had dealt with Sir *Patience* for several thousand Pounds, and that he found him very just.

Sir *Fran. Winnington*: Do you think he would forswear himself.

Johnson: I do not think he would tell a Lie.

Mr. *Attorney General*: No, not for a Party.

Johnson: No; I told him he was look'd upon as disaffected to the Government: Says he, It is

my Misfortune, I am as Loyal as any Man in *England*.

Mr. Just. *Withins* : What made you doubt his Loyalty ?

Mr. *Toriano* sworn.

Page 426.

He depos'd, That he had known Sir *Patience* thirty Years ; and he did not think he would tell a Lie to his Knowledge.

Mr. *Pickering* sworn.

He depos'd, He had been acquainted with the Defendant forty Years, and found him a Man of a fair Conversation, and did not believe he would forswear himself, and that his Discourse was very Loyal.

Captain *Griffith* sworn.

He depos'd, He did not think the Defendant would forswear himself.

Sir *Harry Tulse* examin'd as to his Character.

Sir *Geo. Treby* : Do you believe Sir *Patience* would forswear himself.

Sir *H. Tulse* : Truly, I believe not.

Mr. *S. Jefferies* : Do you believe every Thing he swore at the last Trial was true ?

Sir *H. Tulse* : I believe they were not true.

Sir *W. Hooker* depos'd, That the Defendant was in such a Consternation at the Trial, that he was like a Man three Parts dead.

Sir *Francis Lee* sworn.

Mr. *S. Jefferies* : Do you remember what Sir *Patience Ward* said at the Trial ?

Sir *Fran. Lee* : I was upon the Jury, and Sir *Patience* did swear, That Mr. *Pilkington* was not in the Room when the Discourse concerning the Duke of *York* was mentioned ; but afterwards did swear ; when Mr. *Pilkington* said, *He hath burnt the City*, I clapp'd my Hand upon his Mouth, and t'other upon his Breast, and bid him explain himself, Who do you mean, *Hubert* ? Sir *Francis Butler*, who was Foreman, and stood next to me, bid me take Notice of that : And afterwards discoursing together, He ask'd me if I took Notice of it ? I told him I did. Truly it seem'd clear to me, *That he should swear he was not present at*
the

the Discourse about the Duke of York, and afterwards he must infer he meant the Duke of York, or else what should he have stopp'd his Mouth for?

Mr. Williams: To come in with Witnesses again, when both Sides have been heard, I do not understand.

Lord Chief Justice: They may call their Wit- Page 427.
nesses when you have done with yours.

Sir Geo. Treby: Your Evidence doth not at all encounter ours: It stands with it; they say *Sir Patience Ward* said thus and thus; as concerning Cutting of Throats; the Discourse being ended, and the Duke's being not named: Ours say the same too; but they say further, That he said it with all the Caution in the World, from the Beginning to the End; my Lord Chief Justice bid him recollect himself: He says, he speaks to his Memory, *To the best of his Remembrance*, and thereupon was that memorable Reply of *Sir G. Jefferies*, *Your Invention is better than your Memory*: These Words of Limitation might not be heard or observ'd by their Witnesses, and our Witnesses swear positively to them; I have all the Reason in the World to think that the Notes of their first Witness contain'd these Limitations, and therefore he would not produce them; nor does he say any Thing positively, but on his Belief. *Sir William Hooker* says, *Sir Patience* was in great Confusion; here are Gentlemen beyond Exception, that say, his Dealings were so fair, that he never told a Lie; is it possible he should avoid so great an Evil so long, and now at last be guilty of so base a Crime as Perjury? which no Man ought to presume of another, without the plainest Proof: One of our Witnesses, who remembers the Qualifications, is worth Abundance of theirs that did not write, especially such a one as does not shew his Notes; they were testified by them with Cautions, and therefore there is no Colour that this should be deem'd Perjury.

The Defendant's Counsel's Observations on the Evidence.

Mr. Williams: Gentlemen, There has been no Manner of Evidence given against *Sir Patience Ward*, either as to his Honour, his Reputation,
or

Page 428.

or Truth, for ought appears to you, before this was laid to his Charge; he was a very clear Man, a Man of Truth and Value; and Sir *William Hooker* says, he was under that Consternation, that he was like a Man three Parts dead, and there could be nothing of Malice, if he was out of his Senses. Sir *Harry Tulse* believes he would not willingly perjure himself; then he is not guilty of wilful Perjury, and that was the Question they were to try: Men are subject to mistake, as you may observe by the Evidence of Sir *Harry Tulse* and Sir *William Hooker*: One says, that the Words were by Way of Question, *Is the Duke come to cut our Throats?* The other says they were positive, in the present Tense, *He is come, &c.* and yet no Man will say they are guilty of Perjury. As these Gentlemen have misremembered, so might Sir *Patience*; and this is his Infirmary, it is no Crime; then he is not charged with an Affirmative, but Negatives; says he, there was no Discourse of Cutting of Throats, which was very natural for him to say, if he heard no such Thing; every Man must speak to his Hearing; nor do any of their Witnesses say positively, That he swore there was no Discourse of Cutting of Throats; and Mr. *Blaney* says positively, he did refer his Evidence to his Hearing, or to his Memory, &c. and this he took in Writing, and several Witnesses had been call'd to support his Evidence; and it is observable, that the Witnesses depose, That Sir *G. Jefferies* made a Comment on the Word *Memory*, That he commended his Invention rather than his Memory; they demand, if Sir *Patience* said any Thing positively; who can answer this? The Trial lasted some Hours, and Sir *Patience* was an Hour in examining; it is an impertinent Question: Thus have we answer'd every Thing particularly; Gentlemen, we are in your Hands; here is positive Proof for us, all the Presumptions that can be for us, Proof of our Reputation; and a Man of Honour had rather be tried for his Head than for his Ears; I know you are Men that value your Reputation, and I leave

leave it to you upon your Oaths, whether this Gentleman is guilty of wilful Perjury.

Sir *Fran. Winnington*: My Lord, if it appear that Sir *Patience Ward* hath not sworn wilfully and corruptly, you will tell the Jury, That he is not guilty of Perjury; and I must observe, we are now contending which Witnesses have the best Memories, and there is not any of their Witnesses but vary in Words, they are not consistent in their Evidence to any particular Questions; and can it be construed wilful Perjury upon such uncertain Evidence: Mr. *Blaney* hath a great Advantage of them, he took the Defendant's Deposition in Writing from his very Mouth, and he deposes, that these Qualifications, *To the best of his Remembrance, &c.* went through the whole Evidence: But farther, Is any Man damnified by this Oath, hath it prejudic'd any Man in his Reputation or Estate? and it is strange the Defendant should do this for nothing, that he should be the wickedest Man in the World at one jump, when no Act of Falsity appears in him before.

Page 429.

Page 431.

Mr. *Polexfen*: My Lord, If several Witnesses interfering one with another, one Man's remembering one Parcel of Words that were spoken, and others another, should be deem'd Perjury, by thus remembering and not remembering, no Person durst be a Witness; two or three Persons swear a Man said so, another swears he did not; no Man can understand it in any other Sense, but he did not hear him say so; otherwise Men might perjure one another upon Omissions.

Mr. *Attorney General*: It is the first Time I have heard, that if the Defendant did not intend to swear falsely, it will not be corrupt or wilful Perjury: I must therefore observe to the Jury, that if the Matter he swears be false, the Law construes it to be corrupt and wilful, provided it have an Influence on the Issue; for we cannot search into a Man's Intentions; the Jury therefore are to enquire but of two Things: First, Whether these Words were spoken by him, as they are laid in the Information; and, 2. Whe-

The King's Counsel reply.

Page 430.

If the Matter sworn be false, the Law calls it wilful Perjury.

ther

ther they are false ; That the Words were spoken positively, as they are laid, and not with these Qualifications, *as I believe*, or, *as I remember*, has been prov'd; and that they were false they do admit by all their Witnesses; they do not go about to encounter that Proof at all; and they are contrary to the Matter that was in Issue.

That the Defendant spake them, the Thing it self declares, for he was heard by the Court as a Witness, and as their Evidence; and if he had spoke only to his Belief or Remembrance, the Court would have declared it was no Evidence; That it did not encounter the Issue or the Proof. When two Witnesses had swore the Words positively, would the Court refer it to Sir *Patience Ward's* Belief? If this were Evidence; if this Kind of Doctrine was admitted, there must be an End of all Trials: No Man can be perjur'd upon his Remembrance or Belief; for who can tell whether he remembers or believes the contrary: My Lord, we should not have produc'd Sir *William Hooker*, if the Defendant had sworn only to his Belief; we did not call Sir *William* till after his Evidence was given, to encounter his positive Evidence; and Sir *William Hooker* did swear it positively upon him again; then the Court did ask him, What do you swear? My Lord, after this, he might be shy in his Evidence, and say, *I remember, I believe*: After this we put it upon him again, and then we say the Words were sworn positively. And what is Mr. *Blaney's* Evidence they insist so much upon; he pulls out his Notes, and says, to such a Question there was such an Answer, *To the best of his Remembrance*. But does not Mr. *Blaney* say, these were short Notes, many Things omitted, and I perceive whole Sentences omitted, as appears by the Passage of Sir *G. Jefferies's* Interrogation: In one Place he might say, *To the best of my Remembrance*, but surely we could not let such an Evidence pass: When he was press'd, Mr. Alderman, Is it so? for Belief is no Evidence; there he answers positively, and this is omitted in Mr. *Blaney's* Book: And what does

does Mr. *Blaney* himself say? he took Notes, but he did not answer one Thing positively throughout the Whole, for which he is rejected as no Witness; this is an Art never invented till of late; and if it be allow'd, you will have as much Forswearing as Lying. Here is one gives Evidence, he never told a Lie in his Life, and I care not whether the Jury believe that, or no; but surely we should never let a Man go away with such an Answer as this, *To the best of his Remembrance*. The Punishment of Perjuries makes Men cautious in swearing, and so it was ever since Swearing was allow'd to decide Causes; but if there be a new Way introduc'd of giving Evidence, *To the best of my Remembrance*, you have shut out the Punishment: Col. *Birch*, and others, say, that to some Things there were these qualifying Words; but if it had been to material Things, were we so senseless, or the Court so senseless, to let *The best of my Remembrance* pass for Evidence: Their Witnesses say nothing at all expressly, when they are ask'd, Can you swear that he added these Words, *To the best of my Remembrance*; then they answer, he did to some Things, but they are not positive to what; so that it appears we have plain Testimony, they have no Proof. He hath been a fair Dealer surely, or he could never have acquir'd such an Estate; but when Men are engaged in Parties, we see what they will do for a Party, and to help a sickly Brother that was falling into the Pit: If we had had Notice of this Kind of Evidence, we could have shewn many Blots in this Gentleman; but it is not material of what Reputation he has been, if we shew he spake the Words in the Manner they are laid, and that they are false.

Mr. Solicitor General: The Questions we were to prove were, Whether Sir *Patience Ward* did give his Evidence, *That Pilkington did not come in till the Discourse concerning the Duke of York was over*: Whether he did swear positively, *There was no Mention of Cutting of Throats*? And we have call'd two Witnesses, that have prov'd he swore

If one swears what he does not know to be true, it is deem'd wilful Perjury.

swore both positively, without any Restriction; and Sir *Francis Butler* deposing, that they consider'd the Weight of that Evidence, makes good what the other Witnesses said, That he did swear it without any Restriction: They say indeed, that he cannot be found guilty, because this might not be wilful and corrupt Perjury; but if a Man is conscious that the Truth is otherwise, or if he be uncertain, whether it be so, or no, and take upon him to swear it, this is wilful Perjury in him; for he did not know it to be as he did affirm: But to consider how this Discourse arose, it was upon a Debate concerning waiting on his Royal Highness upon his Return: They were all present in the Gallery at *Guildhall*, and it is reasonable to presume, that every one heard the whole Discourse——— However, Sir *Patience Ward*, by his Actions, must hear every Particular; for when Mr. *Pilkington* comes to these Words, *He hath burnt the City, and is come to cut our Throats*; Sir *Patience* catches hold of him, and stops him. Now he that was so near him as to lay Hands upon him, surely must hear what he said; besides, he check'd him for what he said, and would fain have brought him off by an Invention that serves to little Purpose; however, this verifies that the Words were spoken of the Duke of *York*, and for that Reason he administred an Excuse to him; and therefore it cannot be presum'd he did not hear the Words; however, if he took upon him to swear positively what he was not certain of, it will be wilful and corrupt Perjury in him: They object further, That there is no Damage done in this Case. If a Man should forge a Deed, and the Jury detect the Forgery, there is no great Damage, but shall the Man be excused, because the Fraud is discover'd? Shall no Perjury be punish'd, but what is successful?

Page 432.

Mr. *S. Jefferies*: My Lord, it has been insisted upon, that Sir *Patience Ward* has been a fair Dealer, that he hath been Lord Mayor of *London*, Sheriff, &c. and therefore it cannot be supposed he would be guilty of Perjury; but Persons that

that have born these great Offices have been guilty of greater Crimes, or Crimes that have greater Punishments inflicted for the Commission of them; as those of Rebellion and Treason; so that it is not the Dignity of Place that will exempt Men from offending: And upon this Evidence, Sir *Patience Ward* must be found guilty of wilful Perjury, rather than three or four Aldermen that swore against him: As to the Difference between the Evidence of Sir *Harry Tulse* and Sir *William Hooker*, one deposing that the Defendant said, *Is he now come to cut our Throats*, and the other, *Is he come to cut the Throats of our Wives and Children*; it is not material; for Sir *Patience Ward* says, there was no such Discourse, as that of *Cutting of Throats*: Again, one says the Words were *He is come to burn the City*; the other, *Is he come to burn the City*? Which is not material; for Sir *Patience* comes and swears, That *all the Discourse about the Duke of York was over before Pilkington came in*; which contradicts what both these Gentlemen swore; and this is not so small a Variance as his Counsel would insinuate. Gentlemen, you are not to mind the Flourishes made by the Gentlemen at the Bar: Here is a Lord Mayor of *London*; here is an Alderman, can you believe him guilty. But do you think that these Gentlemen of Quality that have acquitted themselves so dutifully, so loyally and faithfully as they have done, on whom no Man can lay the least Blemish: Will you take it upon your Oaths that these Gentlemen are forsworn? That would be strange! The Laws and the Exercise of Justice are concern'd, and are to be maintain'd. Justice is to be done; there is no Man so big as to be exempted from Punishment; the greater the Person is, the greater is his Crime.

Page 433.

Lord Chief Justice: Gentlemen of the Jury; the Information sets forth, That there was an Action brought by the Duke of York against Sir *Tho. Pilkington*, for speaking scandalous Words against his Highness, saying, *he burnt the City*; that he was come to cut their Throats; to cut their Wives and

Lord Chief Justice directs the Jury.

and Children's Throats; and this was try'd in Michaelmas-Term last: The Information before you says, That Sir Patience Ward was sworn to give Evidence in that Cause, and did positively swear, upon mentioning the Discourse concerning his Royal Highness by Pilkington, and concerning his Burning the City and Cutting of Throats, That there was not any Mention of Cutting of Throats at all, and that before Mr. Pilkington came in, the Discourse of the Duke of York was over: Whereupon Mr. Attorney General hath assign'd a Perjury, That this was false, and the Defendant hath pleaded Not guilty.

I must aver to you, That if this was false, the Law calls it a wilful and malicious Perjury; for it was the very Point in Question then; the Question was, Whether *Pilkington* said these Words, or not? And *Sir Patience* did come and swear, there was no such Thing, in order to acquit the Defendant; so that it was the principal Matter to be consider'd: Now, for ought I perceive, both Sides do agree, That if *Sir Patience* did swear it positively, it was false; there is nothing at all said to the contrary: What you are to consider of therefore is, Whether this was spoken by *Sir Patience Ward* positively, or as the Defendant would have it, with Qualifications, *as he remembred, not in his Hearing, &c.* for then it is plain he cannot be convicted of Perjury, because no Man can be convicted for saying, he did not remember.

But how could *Sir Patience Ward* say, That nothing of that Kind was said in his Hearing, when he himself takes Notice of it, and puts an Interpretation upon it, when he talk'd of Burning the City, *Oh, you mean Hubert.* It is very hard for a Man to swear afterwards, it was not in his Hearing.—— Pray set me right, if I mistake.

Mr. Pollexfen: No Man deems but these Words were spoken; but the going to *St. James's*, and the Duke of York: Whether that were not before he came in?

Sir Geo. Jefferies, It was one entire Sentence.

Lord Chief Justice: I take it the Evidence was, that *Pilkington* did say, He had burnt the City, and he was or would come to cut their Children's Throats; that was in one Sentence; and *Sir Patience Ward* being there at that Time, when *Pilkington* said the Words, cry'd, *Oh, you mean Hubert*; or ask'd the Question, *If he meant Hubert*?

Mr. Williams: He did not hear r'other Part.

Lord Chief Justice: I will leave that to the Jury; you say there were two Clauses, *Burning the City*, and *Coming to cut our Throats*; and I perceive it is agreed, that *Sir Patience* did hear one Part of the Sentence, if not the other. But surely he did not do well, if it were no more than that, To say he did not hear any such Thing, when it is plain he took Notice of it at the same Time: As to what they say, That no Man has no Harm: If one commits wilful Perjury, tho' no Man is injur'd by it, hath not he committed a Crime? Besides 'tis very plain, if the Jury had given greater Credit to *Sir Patience Ward*, than they did to the other two Gentlemen, the Cause had gone another Way, and that would have been an Injury; though he had not Success, the Crime is the same; but the Question is, Whether *Sir Patience* did give his Evidence with Qualifications, or not? Now, at the Trial of *Pilkington*, there were two or three that did prove the Words spoken by him against the Duke of York, and swore they did reprove him for it: *Sir Patience Ward* was then produc'd by *Pilkington*, to defend the Issue on his Side, and prove that he had not said the Words; but had *Sir Patience Ward* only said, *I do not believe such a Thing, I do not remember it*; certainly this had not been an Evidence worth the Consideration of the Jury; for that was no more than any Man they had pick'd up in Court might have said: Now I think there are eight or nine Witnesses for the King, who all say they remember it very well; and some of them, that they took special Notice of it, and were astonished to hear such Evidence; they all agree, that it was

Swearing falsely is Perjury, whether the Witness is believ'd, or not.

positive Evidence, and not, *as he believ'd, or heard*: Now, that eight or nine Gentlemen, some of them of good Quality, and all of them of very good Credit, should agree to perjure themselves, to be reveng'd on Sir *Patience Ward*, is very strange; and for ought I see, there is not any Man that appears, but is sorry for him, and some of them have a Kindness and Respect for him: The Defendants on the other Side bring Mr. *Blaney*, who took Notes, and there are Qualifications, That Sir *Patience* did speak, *according to the best of his Knowledge, &c.* To which it is objected, That it is plain Mr. *Blaney* did not take every Thing; and whether, what he had taken was true, was still a Question; and it is remarkable, That none of the Defendant's Witnesses swear positively, but according to the best of their Memory; whereas the Gentlemen on the other Side, all the nine Witnesses, swear positively.

Counsel: No, no.

Lord Chief Justice: Look you, Gentlemen, one spoke to one Part of the Words, another to another; but they swear positively to what they did swear.

Mr. Williams: They were upon their Memories.

Mr. J. Withins: Sir *Francis Butler*, and Sir *Henry Lee* were not; nor Sir *Thomas Field*, and *Hatch* and *Wood* were not.

Lord Chief Justice: They did take it upon them positively, whereas *Beaver* and *Crisp*, and *Wright*, &c. swore but according to the best of their Memories, *as to the Words*. You brought Persons to testify to his Credit; but I think an Alderman who had pass'd the Chair, should not have brought any Man under an Alderman to have justified him; 'tis true, several have given him the Character of a fair Dealer, and Sir *Harry Tulse*, one of his Brethren, look'd upon him as such, and did not think him stain'd with any enormous Vice: But when he was ask'd, if he thought he had sworn true in this Particular, he could not say it. Gentlemen, upon the Evidence you have heard, you are to consider the Merits of the Cause,

Cause, and not the Person: If you believe the Witnesses for the King, that he did swear positively, (for it is agreed it was false) then you must find the Defendant guilty; but if you believe the Evidence given on the Part of the Defendant, and not the King's Evidence, you must acquit him. It is a great Crime, that's the Truth of it.

The Jury having withdrawn, return'd after some Time, and brought the Defendant in **GUILTY**: But the Sentence being respited, the Defendant thought fit to abscond, rather than abide by the Determination of the Court. Found guilty.

Proceedings between the KING and the City of LONDON, on an Information in Nature of a Quo Warranto in the King's Bench. Hill. Term. 35 Car. II. 1683. Vol. V. Page 435.

AN Information, in Nature of a *Quo Warranto*, was brought in the King's Bench, by Sir Robert Sawyer, Knt. his Majesty's Attorney General, against the Lord Mayor and Commonalty, and Citizens of *London*, which set forth, The Information against the City.

That the Mayor and Commonalty of the City of *London*, by the Space of a Month past, had used, and claimed to have and use, without any lawful Warrant or Regal Grant, within the City of *London* aforesaid, the Liberties and Privileges following, *viz.*

To be of themselves a Body Corporate, by the Name of Mayor and Commonalty and Citizens of the City of *London*: To have Sheriffs of the City of *London* and County of *Middlesex*, and to name, elect and constitute them: And that the Mayor and Aldermen of the said City should be Justices of Peace, and hold Sessions of the Peace. Liberties and Privileges usurp'd.

All which Liberties and Franchises, the said Mayor and Commonalty, and Citizens of *London*, did usurp upon the King.

City's Plea.

The Mayor and Commonalty and Citizens, appearing by their Attorney, plead as follows:

That the City of *London* is, and hath been Time out of Mind, an antient City, and the Citizens are, and by all that Time have been, a Body Corporate and Politick, by the Name of Mayor and Commonalty and Citizens of the City of *London*.

Of Liberties
granted by
Parliament, and
Charters.

That in *Magna Charta*, 9 H. 3. it is enacted, *Quod Civitas London' habeat omnes Libertates antiquas & Consuetudines suas*. That in the Parliament 1 Ed. 3. it is ordained, That the Citizens of *London* shall have their Liberties, according to *Magna Charta*. And in the Parliament holden 7 R. 2. the Liberties of the City of *London* were ratified and confirm'd.

Then they plead the Grants and Confirmations by Charters of King *Hen. 6. Edw. 4. Hen. 7. James 1. Charles 1. and Charles 2.* as to their being a Body Corporate, &c.

Page 436.

That King *John*, by his Letters Patent under the Great Seal, dated 5 July, *Anno Regni sui 1.* Granted to the Citizens of *London*, That they should have the Electing, Making and Constituting Sheriffs of *London* and *Middlesex imperpetuum*: And this Liberty is confirmed to them by all the afore-mentioned Statutes and Charters.

That King *Charles 1.* by his Letters Patent, dated 18 Octob. 14 Car. 1. granted to the Mayor and Commonalty and Citizens of *London*, That the Mayor and Aldermen of the said City, such of them as had been Mayors, should be Justices of the Peace, and should hold Sessions, &c.

Ac eo Warranto They claim to be a Body Politick; and to make and constitute Sheriffs, and to be Justices.

Attorney General's
Replie-
cation.

The Attorney General replies: And takes Issue, that the Mayor and Commonalty and Citizens of *London* never were a Body Corporate, and for this puts himself upon the Country; and as to the other two Pleas, of the making and having Sheriffs, and Justices of Peace, he imparts, &c. And then pleads over,

That

That the Mayor, Commonalty and Citizens, assuming to have Power to assemble and make Laws and Ordinances for the better Government of the City, under Colour thereof, but Respecting only their own private Gain, assum'd an unlawful and unjust Authority to levy Money upon the King's Subjects, to their own proper Use, by Colour of Laws and Ordinances by them made; and in Execution of such unjust Power by them usurp'd, had made and published a certain Law by them *de facto* enacted, for the Levying several Sums of Money of all the King's Subjects coming to the Publick Markets to sell their Provisions; and that the said Sums should be paid to the Use of the Mayor, Commonalty and Citizens, &c.

Takes Issue as to Part, imparts and pleads over.

That the Citizens had made illegal By-Laws.

And under Colour of this Law, the Mayor and Commonalty had illegally, by the Space of seven Years, received divers great Sums, amounting to 5,000 *l. per Annum*, in Oppression of the King's Subjects.

Further, That the Mayor, Commonalty and Citizens, 13 *Jan.* 32 *Car.* 2. in their Common Council assembled, unlawfully and seditiously did order a Petition should be exhibited to the King, setting forth, That by the Prorogation of the Parliament the 10th of *January* to a certain Time then following, the Prosecution of Publick Justice was interrupted, &c. and did cause the same Petition to be printed and dispers'd amongst the King's Subjects, to incite them to Hatred of the King's Person and Government, and in Disturbance of the Peace.

And petition'd against the Prorogation of the Parliament.

By which the Mayor, Commonalty and Citizens aforesaid, did forfeit their Franchise and Corporation; and afterwards usurp'd upon the King. *Et hoc, &c.*

So forfeited their Corporation.

The Mayor, Commonalty and Citizens, after several *Protestations* for preserving their Rights; That no Act of the Mayor and Aldermen, &c. is the Act or Deed of the Body Corporate; and that they never took upon them any unjust Authority to tax the King's Subjects; or did ever

Rejoinder of Mayor and Citizens.

Page 437.

Custom to
have Markets,
C^c. and Toll.Privileges and
By-Laws, and
Ordinances
justify'd.A Popish Plot
discovered
against the
King and Go-
vernment.

levy such yearly Sums as are alledg'd, for Plea to the Replication say,

That *London* is the Metropolis of *England*, and very populous; and Time out of Mind there have been divers Publick Markets for Provision and Merchandize within the said City to be sold.

That the Mayor and Commonalty and Citizens are seised of these Markets in Fee, and Time out of Mind have provided, at their own Charges and Costs, Places for the Holding the said Markets, and Stalls and Standings; and also Officers for the better Ordering of the said Markets; and for the Sustaining of the said Costs and Charges, have had, and ought to have reasonable Toll of Persons coming to the said Markets, for exposing their Goods and Commodities to Sale.

That there is a Custom within the said City, for the Mayor, Aldermen and Common Council, to make By-Laws and Ordinances for the Regulation of the Markets within the City: And that by Reason of the Burning the City in the Year 1666. and the Alterations in the Market-houses and Places thereby occasioned; the Mayor, Aldermen and Common Council, for the better regulating the said Markets then establish'd, did make an Ordinance ascertaining the Rates and Sums to be paid for Toll, for Standings in the Markets, and for amending, paving, and cleansing the Market-Places, and defraying the Charges thereof; and they aver, That these were reasonable Sums to be paid, and have been demanded and received to the Use of the Citizens, as was lawful for them to do.

And as to the other Matter, pleaded by the Attorney General in assigning a Forfeiture of their Body Corporate, they say,

That within this Kingdom there was a Plot and Conspiracy prosecuted by Papists to destroy the King, and subvert the Government; and Sir *Edmundbury Godfrey* having taken Examinations of Witnesses and Informations concerning the same, to suppress his Examinations, the Conspirators

rators murder'd him; for which *Green, Coleman,* and others, were try'd and executed.

That the Lords *Powis, Arundel, Petre* and *Bellasis*, were impeached by the Commons in Parliament of High Treason for the same Conspiracies: And the King in his Speech to that Parliament had recommended to them the further Pursuit and Examination of that Conspiracy, declaring, that he thought neither himself nor them safe 'till that Matter were gone through, and the said Lords brought to Trial, &c. And the Lords and Commons address'd his Majesty, and declared their deep Sense of the sad Condition of the Realm, occasion'd by the Conspiracy of the Popish Party, who had plotted against, and intended the Destruction of the King, and Subversion of the Government and Religion of the Kingdom; whereupon a solemn Fast was kept, and divers Bills prepared for Preservation of his Protestant Subjects.

That these Impeachments and Bills being thus depending, and the Lords not tried, the Parliament was on the 10th of *January* prorogued, by Reason of which the Citizens were much disquieted with the Apprehension of Danger to the King, his Government and Realm, as is by both King and Parliament affirm'd; and conceiving no better Means to prevent it, than by the Sitting of the Parliament, and it being lawful for them to Petition, the Mayor, Sir *Patience Ward*, and the Aldermen and Commons, for the Preservation of the King and his Government, did cause to be written the Petition in the Replication mentioned, humbly praying, That the Parliament might sit 'till proper Remedies were provided against the Evils threatned, and order it, after presented to the King, to be printed, for satisfying of the troubled Minds of the said Citizens.

The Petition, for the Sitting of the Parliament, &c.

Page 438.

And they traverse and deny their Making any other Petition, or making this to any other Intent than they have pleaded as aforesaid.

The Attorney General, as to the Plea of the Mayor and Commonalty and Citizens, concerning the

Attorney General's Surrejoinder.

the Making and Publishing the Ordinance relating to the Markets;

Protestando, That the Mayor, Commonalty and Citizens were not seised of the Markets, nor at their Charges provided Stalls and Neccessaries, &c. And that the Rates and Sums receiv'd were not reasonable;

Denies the Privileges pleaded.

For Plea saith, That by a Statute made 22 *Car.* 2. it was enacted, That Places for Markets should be set out, and a Duty upon Coals for the Charge of that and many other Things was given; and that they received a great Sum out of that Duty for the Purpose aforesaid, and yet took the Money by the Ordinance;

And traverseth, That the Mayor and Commonalty and Citizens, Time out of Mind, have had, and ought to have Tolls, or any Rates or Sums of Money, as before suppos'd, by the Ordinance afore-mentioned.

And justifies the Prorogation of the Parliament.

To the Plea of the Mayor and Commonalty, &c. to the Residue of the Attorney's Matter assign'd for a Forfeiture, the Attorney *Protestando*, That the aforesaid Prorogation of the Parliament was for urgent Causes, concerning the Good of the Kingdom, and thereby publick Justice was not interrupted.

He demurs to the said Plea of the Mayor, Commonalty and Citizens, by them pleaded as to the said Petition.

Rebutter.

The Mayor and Commonalty and Citizens, as to the Making of the Ordinance for Payment of Money by those that come to the said Markets, say as before,

The City insists on their Liberties,

That the Mayor and Commonalty have, Time out of Mind, had reasonable Tolls, Rates or Sums of Money of all Persons coming to their Markets with Victuals and Provisions to be sold, for Stalls, Standings, and other Accommodations by them had for exposing of the same to Sale. And of this they put themselves upon the Country, &c.

To which Mr. Attorney demurs.

And demur to the Forfeiture.

And, as to the Plea to the Residue of the Matter assign'd for Forfeiture by the Attorney General,
The

The Mayor and Commonalty, &c. join in Demurrer.

It is necessary to be observed, That Mr. Sergeant *Pemberton* was Chief Justice of the *King's Bench*, when the Demurrer in this Case was joined, which was in *Michaelmas-Term*, 34 *Car. 2.* But before *Hillary-Term*, when it came to be argued, he was removed, and made Chief Justice of the *Common Pleas*; and Sir *Edmund Saunders*, who had been Counsel for the King in Drawing and Advising the Pleadings, was made Chief Justice of the *King's Bench*.

The Chief Justice, first *Pemberton*, afterwards *Saunders*.

This great Case was twice argued at the Bar; the first Argument was by Mr. *Finch*, Solicitor General, for the King, and Sir *George Treby*, Recorder of *London*, for the City, in *Hillary-Term*, on *Wednesday* the 7th of *February*.

Case argued.

The Solicitor General said; There are several Questions which arise in this Case, which has been a Case of great Expectation, and every Man hath discours'd about it; and the Prejudice that some Persons have entertain'd concerning it, have occasioned them to assert, that a Corporation cannot be forfeited.

Solicitor General's Argument, for the King.

Therefore, because this strikes to the Whole, though I think it hath no Foundation in Law, I will beg Leave to remove this Objection out of the Case. In order to it, I shall lay down two Propositions; first, That no Corporation hath any other Creation than other Franchises have, and Corporations subsist upon the same Terms that other Franchises do: Secondly, That there is a Trust or Condition in Law annex'd to all Franchises, that they be not abused; and the Breach of them is a Forfeiture of the very Being of a Franchise.

Corporations and Franchises have the same Creation.

As to the first Head, 'tis undoubtedly true, that the King is the Original of all Franchises; they have their Beginning from him. *Stat. 17 Ed. 2.* And there can be no Corporation, but by the King's Letters Patent; for even a Prescription doth suppose there was the King's Patent to create it at first. So that the proper Inquiry will be about

Page 439.

The King the Original of all Franchises.

about the second Thing, *viz.* How far the Breach of Trust, that is annexed to a Franchise, is a Forfeiture thereof.

Franchises and Corporations forfeited in several Cases.

There is no Rule in Law more certain, than that the Misuser of a Franchise is a Forfeiture of that Franchise. 18 *Ed.* 2. If Towns exact more Murage than is granted by Charter, they shall lose that Grant for ever. 2 *Inst.* 223. In the *Abbot of St. Alban's Case*, 8 *H.* 4. 18. the King seised the Franchise into his Hand, because the Abbot detain'd Prisoners in the Gaol which he had, a long Time without making any lawful Deliverance. And a Layman taken in a Robbery, being challeng'd by the Ordinary for a Clerk, whereas he was not; it was adjudged, that for this false Challenge the Ordinary should forfeit his Temporalities, and Franchise to challenge Clerks for him and his Successors for ever. Thus it is plain, that Franchises, if misused, are forfeited; and that though enjoyed by Persons in a Corporate Capacity.

A Corporation may be surrendered, and consequently forfeited.

Corporations are entrusted with a Franchise to make Laws for governing the Subject within their Jurisdictions; but if that Power be exercised to the Subjects Prejudice, it would be an hard Matter if there were no Law to redress that Grievance. Now a Corporation may be surrender'd; and surely what may be surrender'd, may be forfeited: And the Liberties of the City of *Bristol* were seised, and the Custody of it granted to certain Persons, for divers Contempts and Injuries done by the Mayor and Commonalty, &c. *Claus. Rot. R.* 2. And there are many Cases of like Nature, which tho' not Judgments in *Quo Warranto's* to out a Corporation of a Franchise of being a Corporation; yet they shew that these Things were Forfeitures of all the Franchises of a Corporation.

Page 440.
Mitchierts if Corporations could not incur a Forfeiture.

It would be very strange, if a Corporation should neglect to come into *B. R.* the same Term that a *Quo Warranto* is brought against them, they should be outed of their Franchise, as is said 15 *Ed.* 4. 6. And yet when all Contempts and Oppressions imaginable are found upon Record, that

that should not be a Forfeiture. And if the Granting too large Franchises be a Mischief by Law, because they tend to the Overthrowing of the Common Law, as appears by the Commons Petition. 21 *Ed.* 3. Much more would it be a Mischief, if these Franchises were not under the Control of the Law, and made subject to it.

I shall next consider, whether the City of *London* differs from other Corporations in Point of Forfeiture? I think, truly, there is no Difference at all; for *Magna Charta* is no more a Confirmation to them, than it is to all other Cities and Corporations, which are the Words of the Act; and then the Act of 1 *Ed.* 3. upon which my Lord *Coke* says, that the Franchise of this City shall not for any Cause be seised into the King's Hands; and the 7 *R.* 2. which says, that the City shall enjoy its whole Liberties, *licet non usi vel abusi*: These Acts are in Truth no Acts of Parliament at all; so they will not concern this Question. And that they had no such unquestionable Power as they now claim, appears in several Instances, where the Franchise of the City of *London* was seised into the King's Hands; which Seizures shew plainly that the Franchises of the City were forfeitable; for either they were seised upon Matter of Record found for a Forfeiture, or else on some Matter which was to be a Ground of a Forfeiture.

Now the Act of 1 *Ed.* 3. be it what it will, though they would take it in that Sense, that no Forfeiture should be incurred for the Trespas of an Officer; yet I find quite the contrary 5 *E.* 3. *Rot. Claus.* 14. There the King did discharge one from the Office of Mayor, and commanded the Aldermen and Commonalty to choose another; and this I take to be not so much a Punishing of the Officer, as a Breaking in upon the Franchise it self.

The City have attempted to raise themselves above the Fear of any Judgment in any of the King's Courts, by Petitions to our Kings; and they would fain have been absolute, but it hath always

London is not different from other Corporations.

Franchises of *London* forfeitable.

Page 441.

Attempt of the City to be absolute.

always been denied them ; so that from what has been done concerning them, it doth plainly appear, that there was no Difference between the City of *London* and any other Corporation ; only this is the greatest.

Page 442.

The Act of the Common Council, is the Act of the Corporation.

I come now to this Point, Whether the Act of the Mayor, Aldermen and Commonalty, in Common Council assembled, be an Act of the Corporation, so as to make a Forfeiture ? And that will be pretty clear too upon these Reasons.

First, The whole Corporation is fully represented by them : And all By-Laws and Ordinances made for the good Government of the City, are certainly the Acts of the Corporation ; but the sole Power of making those Laws is in the Mayor, Aldermen and Common Council ; and therefore the whole Power of the Corporation is in the Common Council.

Corporation represented by them.

They have the sole Power of the Corporation Seal ; and they can bind the whole Corporation by any Alienation to, or charge upon their Inheritance. They have prescribed that it is incident to their Corporation, and Part of their original Constitution, to be represented by the Mayor, Aldermen and Common Council, and to be ruled and governed by their Laws : But 'tis implied by Law, without Grant, that a Corporation hath Power to make By-Laws to bind the Corporation, without which there would be no Government in a Corporation ; and a Misuser of that Power must be a Forfeiture of their Corporation, because 'tis a Breach of their original Trust.

The Misuser or Abuse of a Part of an entire Franchise, or a Power that is incident to it, is a Forfeiture of the Whole ; and if they cannot forfeit here, the whole Power of the Trust of the Corporation is reposed in them, and may be misused by them, to the Oppression of the King's Subjects, and there is no Remedy.

The fourth Point or Question will be, Whether the Offences set forth in the Replication are Forfeitures ? And herein the first Thing to be consider'd

der'd is, what Right they have to the Tolls or Sums of Money assess'd by the By-Law.

Their Right depends upon a Prescription to have reasonable Toll, and this, as they have pleaded it, appears to be no Right ; for a Prescription to have Toll, not shewing how much in certain, is void : And if the King grant a Toll, and do not ascertain how much shall be taken, that Grant is void. 2 *Inst.* 220. *Palm. Rep.* 79. If they had a reasonable Toll in general, taking the Prescription to be good, if that reasonable Toll in the Use of it were not taken in that Manner, or to that Value as they assess by their By-Law, then have they done wrong ; and therefore our Traverse is proper to their reasonable Toll, that they had not Time out of Mind such a Toll as they set forth.

Right of the Corporation to Tolls.

Page 443.

The King, when once he hath granted a Market, cannot after grant a Toll to that Market, because it is a free Market, and the People have a Right to come to it as such ; nor can any Persons when once by Custom they have exercis'd their Power of assessing reasonable Toll, alter that at their Pleasure ; for it being once set, all People have Right to come upon those Terms ; and if they increase the Toll, under Pretence to reduce it to a Certainty, it will be void.

Toll ought to be certain, and not alter'd.

And now, whether the making of a Law to raise Money at large upon the Subject, be a Forfeiture of the Charter ? To this I answer, that it is.

For it is the Usurping of a Power that they cannot have by Law ; it is the Breach of the Trust annex'd to the Corporation, and a Misuser of the Franchise to the Oppression of the King's Subjects ; and therefore the Charter must be forfeited. For this Offence lies not only in taking the Money, but in taking upon them to make Laws to raise Money ; and they have taken upon them a Legislative Power to oppress their Fellow Subjects ; that is their Offence, and a Misuser of their Franchise. And in the Case of Ship-Money, it was not the *Quantum* of Money that was rais'd, that

Making Laws to raise Money, Forfeiture of the Charter.

was

was complain'd of, but it was the Manner of levying it without an Act of Parliament.

The Abuse and the Offence is the Making of the Law, and the Consequence of that; for by the same Reason that they have a Prescription to lay so much, they may have a Prescription to lay ten Times as much.

Offence in presenting the Petition, and printing it.

As to the last Matter, that is the Petition, where the Offence is not only in presenting, but in printing and dispersing of it; and it charges the King with interrupting the publick Justice of the Nation, and the making the necessary Provisions for the Security of his Protestant Subjects, by the Prorogation of the Parliament; and this is done by them as a Corporation; 'tis the Act of the City in their Common Council, in the Name of the Corporation.

Dispersing it, libelling the King.

Then the Matter of this Petition is the taking upon them to censure the King and his Government; the printing and dispersing it is publicly scandalizing and libelling the King; for 'tis in the Nature of an Appeal to the People, which is unlawful, and the ill Consequences of such Proceedings are many and dangerous. The Fact is confess'd by them; but they say they did it to alleviate Mens Fears, and quiet their Minds, which is no Sort of Excuse in the World; and a Confession of a Fact, is a Confession of all the Consequences that the Law puts upon the Fact.

Charter forfeitable for Greatness of the Offence.

This can amount to no less than the Forfeiture of their Charter, for the Greatness of the Offence, and because otherwise the Law would be unequal; for if this were the Case of a private common Person, he must be fined and imprisoned during the King's Pleasure: Now a Corporation is not capable of suffering this Imprisonment, and therefore the Charter ought to be forfeited, where a particular Person ought to be punished.

Page 444.

Upon the Whole, I pray Judgment for the King, that they may be outed of their Franchise of being a Corporation.

The

The Record in this Case hath been truly opened by Mr. Solicitor in all Particulars, except an Omission of one or two, which I shall mention. I have taken some Notes of what he hath said, but shall first deliver what I have prepared upon the Argument, and afterwards I will give particular Answers to the particular Things insisted upon, for so much of them as I shall not answer in my Discourse, which I fear will be pretty long.

Sir Geo. Treby's
Argument, for
the City.

The first Thing that I shall go upon, is, That a Corporation cannot be forfeited; which I think, will appear by opening the Nature of a Corporation. The Lord Coke says, a Corporation is a Body to take in Succession, framed as to that Capacity by the Policy of Man, and called Corporation, because the Persons are made into a Body, and so are of Capacity to take or grant, &c. 1 Inst. 202. And that this is a meer Personality and Capacity, appears even by this *Quo Warranto* it self, which says, That the Mayor and Commonalty did claim and usurp to be a Corporation under such a Name, and thereby to plead and be impleaded, to answer and to be answered.

Page 445.
A Corporation
cannot be for-
feited, 'tis a
meer Capacity.

I confess that Mr. Solicitor doth not speak without some Authority, when he calls a Corporation a Franchise; but it is not properly a Franchise to have a Power to be impleaded and to plead; for as to that, they are Consequents, which belong to the Person, rather than a Liberty that is super-added to it; and a Body Corporate, is a Person that must answer the Law as a Defendant, and sue as a Plaintiff.

To plead
and be im-
pleaded.

Indeed there is one Case, and but one, wherein a Corporation is called a Franchise; and it is in Coke's Entries, Tit. *Quo Warranto*. But that it is not in its own Nature forfeitable, is plain by all those Qualifications that have been attributed to it, and Expressions about it; as, that a Mayor and Commonalty, or Body Corporate, can never die, they have Succession *in perpetuum*, &c. 1 Inst. 9. 3 Co. 60. 21 Ed. 4. And the dissolving of a Corporation by a Judgment in Law, as is here

Hath perpetual
Succession.

here fought, I believe is a Thing that was never attempted till now in this Case.

Page 446.

In what Cases
may be dis-
solv'd.

In *Roll's Abridgment*, Part 1. fol. 514. under the Head, *How a Corporation can be dissolved*, he cites not only the common Case, if all the Members die, the Corporation is dissolved; but he says further, If a Corporation consists of so many Brothers and Sisters, and all the Sisters die, then 'tis a Dissolution; for a Corporation cannot subsist by Halves. But he doth not go further, and say if they levy too much Money upon the Market; or if they should commit Treason, &c. (could they do so) which happens much oftner than the Death of all the Members, that therefore they shall be dissolved.

This Suit, if it can be brought, is brought by the King who is Supreme; and there can be no Reason to think, but he would have brought many of these Suits to have dissolv'd Corporations, if by Law it might have been done. Corporations have no Power to grant away themselves, or their politick Capacity, and much less is it in their Power to forfeit; for if it should be so, there is never an Hospital in *England*, but, if it have taken too much Toll, were to be destroy'd.

Breach of
Trust, &c. no
Cause of For-
feiture.

A Forfeiture Mr. Solicitor says, must be a great Breach of Trust; and so it must indeed! And how then should they answer for it? If a Bishop, or a Dean and Chapter, have Lands in Fee upon Condition, and they break the Condition, their Lands are gone; but if that Breach of Condition should amount to a Forfeiture of their being a Corporation, that were very strange; this would dissolve and destroy all the Colleges in the Universities, and all the Charity in the Kingdom: And there was a very proper Time when this might have been thought of, if it could have been maintained for Law; and that was in the Time of King *Hen. 8.* who sent out Commissions of Inquiry, to examine into all the Misdemeanors of the Monasteries, Convents, and Colleges; which he need not to have done, could he have brought *Quo Warranto's* against them.

I do

I do not see but that at this Rate, a *Quo Warranto* may be brought against a particular Man, to know by what Authority he claims to have the Liberty of a Subject, to sue and be sued, to plead and be impleaded: 'Tis a Capacity that is born with him, and belongs to him as he is born in *England*, or as he is by Act of Parliament naturalized and made a Subject; and in the Case of Denization it comes home to the Point. But this is so gross a Thing, that it was never drawn in Question; though some others have; as Dignities, Lordships, and the like, and yet no *Quo Warranto* was ever brought, or can lie in these Cases.

It has been held that an Earldom, is a personal Dignity, and such a one as is in the Nature of a publick Person, and by no means can be parted with or surrender'd, although there be a Fine levied, and all the Instruments of Law that can be contrived to annul it; and I cannot apprehend, but that, if this Capacity of a Corporation be liable to Forfeiture, all others must be so too. I believe Mr. Solicitor, where he says Corporations might be surrender'd, rests much upon the Surrenders of the Monasteries in the Reign of *Hen. 8.* But they were not Surrenders of their Corporations; for which I shall rely on the Dean and Chapter of *Norwich's Case.* 3 Co. 73. And in *Palm.* 491. the same Question comes to be debated, Whether the Deanery and Chapter of *Norwich* was given up and destroy'd by their Surrender?

Personal Dignities not surrender'd or annul'd.

Corporations, if surrender'd, are not destroy'd.

According to my Lord Coke, 2 *Inst.* 664. If a Custom that was once reasonable and tolerable, become grievous, and not answerable to the Reason whereon it was grounded, yet it cannot be taken away but by Act of Parliament; for an Inheritance being once fixed and settled by Custom, may not be taken away but by Parliament: And if this be the Case of a little Custom in a particular Place, how much more is it so of the great Corporation of *London*, and all the Corporations in *England*.

Page 448.

Surrenders of
Liberties not
good without
Act of Parlia-
ment.

In the great Case of *Haywood and Fulcher* in *Jones's Rep.* 166. 'tis again and again said there, That the Surrender of the Dean and Chapter, where they surrender'd all their Church, and all their Franchises and Hereditaments, was no Surrender of the Corporation, not though the King did take and accept it as a Surrender, and grant a new Incorporation; for it is not good without an Act of Parliament. And it has been held, where it was said that Corporations were dissolv'd by Surrenders and the like, that the Corporation was before they had any Lands; and if their Lands were all evicted, or they all disseised of them, yet they are a Corporation still.

A remarkable
Case.

Page 449.

The Mayor, Bailiffs and Commonalty of *Cambridge*, had committed a notorious Riot and Tumult, wherein they assaulted the Colleges of the University, imprison'd the Vice-Chancellor, and some of the Scholars, and extorted from them a Bond of 3000 l. on which a Writ went out, but it was from the Parliament, and there they were summoned to appear and shew Cause why the Liberties should not be seised as forfeited; and upon a full Hearing, it was adjudg'd by the King, with the full Consent of the Lords and Commons in Parliament, that the Liberties should be seised as forfeited: All this is taken Notice of by the Lord Coke. 4 *Inst.* 228.

Corporations
seised, but not
forfeited.

There are many Things, as Trusts and the like, that are renounceable and may be surrender'd, yet are not forfeitable, because they adhere to the Person: And as to what Mr. Solicitor has said, that a Corporation may be seised, and therefore it may be forfeited, I think that is no good Conclusion at all. The Words *Seizures of Liberties*, and *Seising into the King's Hands*, make a great Sound at first; but when they are narrowly inquir'd into, they make nothing of Argument.

Seizures 'till
Fines paid, &c.

Now in a real Action, there goes out a *Grand Cape*, and there the Lands shall be seised into the King's Hands, and that looks big upon Record; but the Meaning of it is only that the Sheriff should return Issues upon it, and the King has no

Pre-

Pretensions to the Title of the Land, nor is the Suit his; and so the Seifing of a Bishop's Temporalities, &c. And those Seizures that were of any Towns, were only 'till they had made a Fine to the King, and never intended to suspend or destroy the Corporation: For the Corporation went on as it did before, it might sue and was liable to be sued, and they did all Manner of Acts as a Corporation; tho' the King put in his *Custodes* upon them to keep the Peace and good Order.

Page 450.

The Seizure of Liberties is not a Seifing of the Corporation, because a Corporation is not a Liberty, and it cannot be seised; for the King cannot exercise the Liberty of a Corporation: And should he seise the Corporation, can he himself be the Mayor, Commonalty and Citizens of the City of London? 'Tis not a Thing manurable; and the King can seise nothing, but what he can have and use when he has seised it. If the Corporation had been forfeited at all, it must have been extinct; and if there could be a Judgment given against it, it would not be that it should be taken into the King's Hands, but an *Ouster* of the Liberties.

Seifing of Liberties, not seifing of the Corporation.

If a Corporation do commit a Crime, though I question whether as such they can do it, the Punishment of it must be by other Means than a Forfeiture of their Corporation: The Corporation offending the Laws, shall forfeit and undergo the Penalties appointed by Law, but not be incorporated.

The next Point that I go upon is this, That this *Quo Warranto* is not well brought, if we should admit that a Corporation is forfeitable: It is brought against the Mayor, Commonalty and Citizens of the City of London; that is to say, against the Corporation, for that is the Corporate Name; whereas if a *Quo Warranto* be brought to dissolve the Being of a Corporation, it ought to be brought against particular Persons, for the Writ supposes that they are not a Corporation; and 'tis to falsify the Supposal of the Writ to name them as a Corporation.

Quo Warranto not well brought.

Page 451.

It should be against particular Persons, unless for Liberties.

My Lord Chief Justice *Hale*, in his *Common Place-Book* in *Lincoln's Inn Library*, says expressly, if a *Quo Warranto* be brought for the Usurping a Corporation, it must be brought against particular Persons, because it goes in Disaffirmance of the Corporation, and Judgment shall be given that they be *ousted* of the Corporation; but if it be for Liberties claimed by a Corporation, then it must be brought against them as a Corporation. This Information is brought in Disaffirmance of their being a Corporation; and therefore there must be some Body set up capable of being a Defendant in the Suit: And if you go about to say, our Corporation is forfeited, or that we never have been a Corporation, then there is nothing can come before the Court properly, but that *A. B.* and *C. D.* particular Persons have usurp'd to be a Corporation, when they are none.

A Corporation may usurp Liberties, but not themselves.

If you suppose twenty Men to be a Corporation, and you enquire by what Means they pretend to be a Corporation, or, according to this *Quo Warranto*, usurped to be a Corporation; you must not say that they are one, and then say that they usurped it, for 'tis not the Corporation that usurps to be a Corporation, that is impossible; but it is the particular Persons that usurp to be a Corporation, when indeed they are not one: A Corporation may usurp a Market, or a Leet, but they cannot usurp themselves. And if you search all the Records of this Kingdom, you will never find any *Quo Warranto* that is brought against a Corporation, for being a Corporation, on Pretence that they might be made none by a Forfeiture.

Page 452.

If a Forfeiture, it must relate to the Time done.

As to the Word *Forisfecerunt*, it is a strange and a new Word that never came into any *Quo Warranto* before; and if it be a Forfeiture, it must relate to the Time of the Thing done, to the Time of making the Act of the Common Council, and the Time of the Toll levied, or to the Time of the Petition: And if so, it must have Relation like a Forfeiture for Treason; it must reach all mean Acts; all the Leases we have made since are gone, and all the Judgments that

And all Acts void.

we

we have given are void; all the Acts of the Corporation are overturn'd: We have had no Mayors, nor Sheriffs, no kind of Officers, and no Manner of regular Proceedings; we have forfeited all.

In our Case, Mr. Attorney General admits us to be sueable, and yet charges us to have no Capacity to be sued; he brings us into Court, and then quarrels with us for being here; he makes us Defendants, and afterwards questions whether we ought to be so: And if a Month before the Information, the Corporation was not, but the very Being of the Corporation was usurp'd; how came we at the Month's End to be Defendants, when by the Charge in the Information we were not so before.

Inconsistency
of the Infor-
mation.

The Information is not quite so bad, but the Replication is worse: First he takes Issue, that we never were a Corporation at all; and the next Thing is, if ever you were a Corporation, you have ceased so to be, because you have forfeited it several Years ago: This is just as if I should bring an Action against a Man, and when he hath pleaded, I should set forth by way of Replication that there never was any such Man as the Defendant, or if there were, that he was dead ten Years ago. And Mr. Attorney General, if he will have any Thing to be answer'd by us, he must maintain us to be a Corporation capable of answering.

Replication
bad, as if no
Defendant.

Now I come to the Replication, which is a kind of a new *Quo Warranto*, as it brings in new Matter; and it charges two Forfeitures, the one is by Reason of the Abuse of the Market, and the other by Reason of the Petition. That we were seized of the Market, and of Tolls, and were to have reasonable Tolls is agreed to: Yet Mr. Solicitor objects, That we cannot prescribe for Toll uncertain; and he cites the Case of Murage, which I confess is commonly a Thing certain; but Murage and such Things have been granted in general, and there is a Necessity for it in some Cases; for when a Town will repair its Walls, the Charge may be greater or less, as the particular Acci-

Page 453.
The Replica-
tion, a new
Quo Warranto.

dents may be, and so a certain Duty would not do it.

Toll may be uncertain, as well as certain.

Some Things I will name that are uncertain, as Pickage and Stallage, which are Duties for picking in my Earth to dig Holes for the Posts of Stalls to be fix'd in: Now there can never be any Circumscribing in those Matters, for Circumstances must govern them. If there be Occasion for a Stall to use a Foot of Ground, one Sort of Sum is necessary; if ten Feet, another Sum: It ought to be equal indeed, but it could never be good, if it were limited to a Sum certain. In all Grants that ever were of Pickage and Stallage, they were never reduc'd to a Certainty; and these are Things too that relate to a Market.

Customs of *London* make it superior to other Corporations.

I do not think but *London* ought to be as much under the Obedience and Correction of the King, as any City; but yet I believe, in these Cases of their Customs, you will give that Allowance to it, that all your Predecessors have done, which is greater than they have given to any other Corporations in the Kingdom. That there should be such a Thing as a Foreign Attachment, I think is not allow'd in other Places: The City of *London* may prescribe to have a Court of Chancery in *London*, of Matters tried in the Sheriffs Court, though such a Court cannot be granted by the King's Letters Patent; but the Mayor and Citizens of *York* cannot prescribe for such a Court. The Customs of *London* have been upheld, even against the general Words of an Act of Parliament: And the Citizens may prescribe against a Statute, because their Liberties are confirm'd by Statute. 2 *Inst.* 20. *Palm.* 542.

Page 454.

A famous Case of Toll not unreasonable.

This Duty, as it is pleaded, is very justifiable, and well payable, by Virtue of the Custom; and there is a famous Case reported in 1 *Rolls*, p. 44. A Prescription is made, that the Corporation of *Litchfield* hath a Market, and they ought to repair the Way to it, and to appoint a Bell-man, that should sweep the Market Place; and that for this the Bell-man Time out of Mind had taken of those that brought Corn to the Market, and opened their

their Sacks to sell, a Pint of Corn, if but a Bushel or under ; if more, a Quart : And that Prescription was adjudg'd good by all the Judges, though it doth not appear there, whether the Repairing that Way cost them 5 s. or 500 l. and by Intendment they would not account it unreasonable, tho' it might have been urged it was very unequal.

Now for our Toll, there was very great Reason to induce it, by the great Alterations that were made in *London* by the Fire ; and we do set forth more than they do in the Case of *Litchfield*, that we provided the Market-Places at our own Charge ; and if the People will use them, they must expect to pay some Recompence for it ; that we do keep Officers, and pay them for cleansing and keeping Order in the Markets ; that we provide Standings and Stalls, and such Accommodations, and pay all the Taxes for the Market-Places, for the Ground is ours ; and this Case is stronger than that of the Chamberlain of *London* in 5 *Rep.*

Reasons for
Toll in *London*,
beyond other
Places.

Page 455.

The City, when it made this Act of Common Council, did consult with their Counsel for Matter of Law, and with their Officers and Fellow Citizens for Matter of Fact ; and then adjusted these Rates, and enacted them to be paid, they being reasonable ones, and according to the ancient Usage. I have not heard one Word said, that this is an unreasonable Toll, without which it does not deserve the Name of Oppression ; you cannot judge this to be unreasonable, for the Considerations are meritorious and equivalent to it. We aver it to be reasonable, the Demurrer agrees it to be so, and you must intend it to be so, unless the contrary be set forth clearly in its Circumstances.

Act of Com-
mon Council
made by good
Advice.

Another Thing I have to offer is, that an unreasonable By-Law is no Cause for forfeiting a Corporation, admitting this to be unreasonable, tho' I grant it not. As Reason is given for the natural Body for the Governing of it, so Bodies Corporate must have Laws as a Politick Reason to govern them : And Reason is a Faculty in them, as 'tis in Man, which may err, and not incur the

If By-Laws un-
reasonable, the
Corporation
not forfeited.

Forfeiture of their Corporation. The Cases are very many, wherein By-Laws have been judged unreasonable and void; but it was never said, that thereby the Corporation was destroy'd.

Page 456.

Mistakes will not make a Forfeiture, which may do so much Prejudice.

If here is a Mistake of Law, or of Fact, by Colour whereof Money is receiv'd; this by no Means will work a Forfeiture of a Corporation: For at that Rate every Penalty that has been levied by a By-Law will be adjudged a Levying of Money without Law, and so forfeit the Corporation. If it were so, that all Monies levied by a Corporation without Law, are Forfeitures; then I dare affirm, that we never were a Corporation two Months since *London* was *London*; but by Virtue of some old By-Law or other, that has been set on Foot, Money hath been levied, which perhaps in Strictness will not be allowed good: And if all these had been Forfeitures, we had been in a strange Condition. Then, as no Bounds can be set to the Money or Thing received, all this great Inheritance of *London*, the greatest in the Kingdom, may be forfeited for a Trifle, upon three Half-pence, or a Basket of Eggs.

This a Forfeiture of the Market, or Toll only.

To go further, if this be a Forfeiture, 'tis only of the Market; nay, not so much neither, 'tis only a Forfeiture of the Toll. Now in the *Quo Warranto* that was brought against the Corporation of *Maidenhead*, the Case is in *Palmer's Rep.* 82. That Corporation took an outrageous Toll, that was not justifiable, for going over their Bridge; yet it was so far from being imagined, that this should be a Forfeiture, that it was a Question, Whether the Market was forfeited, or not? And there it was agreed by all the Court, that it should be a Forfeiture only of the Toll.

Page 457.

Note this.

No Forfeiture of the Corporation.

I will to this apply that Rule, *Puniatur in eo quo peccat*: You have offended in the Toll, therefore you shall suffer in the Toll, and not in the Market, to be sure not in the Corporation. The Statute indeed goes thus far, and says, whoever shall take outrageous Toll, shall forfeit the Market; but then shall we come and add, whoever shall take outrageous Toll, shall forfeit his Capacity of holding

holding a Market, or any Thing else? Do they complain of us for taking the legislative Power upon us, and therefore we shall forfeit our Corporation, when the Statute it self has appointed the Punishment, and so make a new Law themselves?

If so be, that we should forfeit our Toll, or our Market; nay, if we should forfeit our Liberty of having a Common Council, what then? how is it possible to bring it up to a Forfeiture of the Corporation? You shall forfeit a Court of Pie-Powders, if you forfeit your Market, because 'tis incident to it, and wholly dependent upon it; but the Being of a Corporation, nothing can transcend that. What is incident to it, cannot reach or transcend it; and 'tis but a Subject to that which is superior.

Incidents may be forfeited.

I come now to that Part which I come least willingly to, I mean that of the Petition: This Petition is justified in the Pleading, and I hope it is very justifiable; if it were but excusable, 'tis enough. That it is justifiable to Petition the King in our Necessities and Extremities, is plain from what my Lord *Hobart* says in his Reports, fol. 220. He says it was resolved by the Court in *Renham's* Case, that it was lawful for any Subject to Petition to the King for a Redress; for Access to the Sovereign must not be shut up in Case of the Subjects Distresses: And sure the Common Council are not less privileged than any other, but rather more in this Kind of Addressing and Petitioning.

It is lawful to Petition the King.

If the Words themselves that are alledg'd to be in the Petition, are not Words that are unlawful to be delivered or spoken, then all this that they are dress'd up with of the Intention to censure the King, and to bring him into Dislike with his People, must go for nothing, and not weigh in the Case. And I conceive these Words are not Words that in themselves are unlawful: If they are in Sense and Substance, the same Words that have been spoken by the King, and the Lords and Commons in Parliament; he that will not be satisfy'd with that Authority, will not be satisfy'd with any.

Page 458.

The Words of
the Petition,
the King's
Words.

We say, that the Prosecution of the Publick Justice receiv'd an Interruption: Does not the King say so in his Speech; we have set forth, wherein he recommends it to both Houses, that Justice may be done? And what is the Meaning of this, but if the further Prosecution of the Offenders goes not on, Justice is not done? And so we speak but the King's Words. Then if there were Bills depending in the Parliament for the Preservation of the King's Person and his Protestant Subjects, and Impeachments that can nowhere else be tried, they do certainly receive Interruption by the Prorogation: Can any Man say this is false?

Inferences on
them unjust.

There is no such Thing said in the Petition; *That the King did interrupt Justice, and the Proceedings of the Parliament*: It is an Inference and Consequence made by Wit and Art; not that the King did, or intended to interrupt Justice; but it says, by the Prorogation of the Parliament the Publick Justice received an Interruption. It is undoubtedly the King's Prerogative to prorogue the Parliament, and that Prerogative is very necessary; but it is by the Consequence of it that this Interruption of Justice is received.

Page 459.

If Words may
be spoken, not
presumed with
ill Intention.

If Words that are tolerable to be spoken, be spoken, you shall not come and say, they were spoke with an ill Intention, as Mr. Attorney General has put it in, to make that, which we may lawfully speak of it self, to be an Offence. The Citizens of *London* were, at the Time of the Petition, under a great Consternation, by Reason of the Conspiracies that had been discovered; and *London* having been burnt by the Papists, it was not to be wonder'd at, that they were desirous that themselves and the Kingdom should be put into great Security against those Enemies. There was no Disaffection in the City at this Time; but the City of *London* had great Indignation against the Papists, for this Conspiracy against the King and Kingdom.

Thus I think the Matter of the Petition is justifiable; and they do admit, that the Making
and

and Presenting of it to the King is not the Offence so much as the Publishing of it, by which it is exposed to many others besides. Our Answer to this, is this: Several Citizens had petition'd the Common Council, and importuned to make known the Desires of the City to the King; and therefore it was reasonable to print the Petition, to make known to those Citizens what the Common Council had done, and to prevent false Rumours; and they printed it to shew that there was nothing of ill intended in it.

The Reasons of Printing the Petition justifiable.

Here is a Petition that is agreed to be well enough lodg'd as to the Persons that voted it; and it had been well if it had not been printed, but only kept private to themselves: This is very strange, that what is known to all *London*, so great a Part of the Kingdom, should be lawful; but it should be heinously unlawful to send the News of it further.

Sure it was lawful to acquaint the Citizens what they had done, if you take it to be the Act of the Common Council, and the Common Council to be the Representative of the City: It was always agreed by the House of Commons, that any Member might send the Votes to those whom they represented; and why then may not the Citizens of *London*, who by Custom chuse the Common Council Men, well know what they have done? And as in the other Case, what they may do by Writing, that they may do by Printing; and Printing is but a more expeditious Way of Writing and Publishing.

Page 460.

Common Council may acquaint the Citizens what they do.

If it may be imparted to all the City, though it goes farther, 'tis no Matter; for what is known to *London*, may very well be known to all the Nation: But it shall never be intended it was published further, because 'tis said to be published in a certain Parish, that is in *London*, and to the Citizens of *London*.

And if known in *London*, known to all *England*.

I shall now offer, that it was either done seditiously, or not; if not, then there is no sufficient Assignment of a Cause of Forfeiture; and if it were, then 'tis a Crime for which the Offender is indictable,

If a Crime, the Corporation not punishable.

indictable, and that is absolutely impossible for a Corporation to be guilty of. A Corporation is but a Name, an *Ens rationis*, a Thing that cannot see or be seen; and is indeed no Substance, nor can do or suffer Wrong, nor any Thing where a corporal Appearance is requisite: It cannot commit Treason, Felony, or a Breach of the Peace, as to the Corporation; the Guilt in these Cases follows the Person, but cannot a meer Capacity.

Page 461.

A Corporation may not be hang'd.

But Persons punish'd in private Capacities.

In all Crimes, the Offender is to appear, and plead and suffer in Person; but you can never bring the Mayor, Commonalty and Citizens into Gaol, to appear and plead to an Indictment, to receive Judgment, or suffer Execution: For can a Body Politick, that is invifible, appear in Person? Shall Judgment be given against them in their Corporate Capacity, that *Suspendatur per Collum Corpus Politicum*? Indeed in their private Capacity, they may be punish'd as single Persons; and they are liable, in their private several Capacities, and must be indicted and suffer personally.

Statute concerning ill By-Laws, inflicts a Penalty.

So no Forfeiture.

I have made an Observation upon the Statute 19 H. 7. which Statute says, That Corporations that do make By-Laws against the Prerogative, shall forfeit 40 l. unless they are confirm'd by the Chancellor and Treasurer, and Chief Justices: Now to what Purpose was this Act made; if the Making of an ill By-Law should be the Forfeiture of the Being of a Corporation? If they might have had a *Quo Warranto*, and thereby destroy'd the Corporation, surely they would not have stood for the Penalty of 40 l. for they might easily have got much more Money, as a Recompence for having the Corporation again: So that I take it to be a direct Judgment of the Parliament, that no Corporation could be forfeited for Making any irregular By-Law.

Page 462.

All this while I have supposed, that the Mayor, Commonalty and Citizens of *London* have done this; but this is not their Doing, 'tis but the Act of the Common Council: And a Common Council is a Thing collateral to a Corporation, the Office of a Common Council is nothing but only to give Assistance

Assistance and Advice. Then 'tis evident this was done by a very small Part of the Citizens of *London*; and that does no Way affect the whole Corporation: If a Charter not sealed by the greater Party bind not, shall an Act done by a few, and which tends to a Forfeiture, bind the whole in Point of their Being?

This the Act of the Common Council, not of the whole Corporation.

There is no Ground to say, that the Common Council represents the City, any farther than it is for the Benefit of the City; they are chosen and entrusted to make By-Laws; if they offend, they are but Ministers and Officers, and so they are within the Statute of *Edw. III.* And for the Power of making By-Laws, that is a Thing that cannot possibly be taken away from the Corporation. Then as to the Corporation's formal Method of expressing themselves, whether it be by Act of Common Council, or under the Common Seal, or by natural Voice, it is not a Thing as concerns them as a Body Politick; but if it were illegal and mistaken, the Penalty is only, that it shall be void.

How far they represent the City.

No Corporation is to be consider'd as such, but only when it acts according to the Capacity allow'd to it: And all the Question here is, Whether there shall be such a Person in *Esse* as this Corporation? There is nothing of Government in the Case; but 'tis all about our Capacity.

Page 463.
Capacity of the Corporation.

Now the Statute of *Magna Charta*, and all the other Acts, that have gone in Confirmation of it, I look upon as so many Declarations of the Immortality of it, and of all other Corporations: And it is a great Evidence for us, that *Magna Charta* does not confirm our Being, but our Liberties and Privileges; it doth more than confirm its Being, for it implicitly declares, that that was impossible to be forfeited and lost, though the particular Liberties may be destroyed. And if it were not so, it were unreasonable that we should have so many Acts of Parliament that give such particular Powers to the Mayor and Commonalty of *London*.

Immortal, and impossible to be forfeited.

It

Vast Inheri-
tances depend-
ing on it.

It would be a strange Thing, that the World should be taught by one Instance, that a Corporation can be ruined, when so many People put their Trusts in those Corporations, and so many vast Inheritances depend upon them.

Here is a Charge that has very little, indeed there is nothing in the Matter of it; but the Weight and Consequences are fitter to be meditated upon than spoken of: And therefore I do pray that these Liberties may be adjudg'd to us.

A further Ar-
gument mov'd.

Now the *Recorder* offer'd to give a particular Answer to Mr. Solicitor's Authorities; but Mr. Attorney General moved to have another Argument in *Easter-Term*, which was agreed to by the Court.

Lord Chief
Justice's Obser-
vations.

Lord Chief Justice: Mr. Recorder, I do perceive you agree and justify, That the King, by the Prorogation of the Parliament did interrupt the Justice of the Kingdom: Or by whose Means, and by whom did the Publick Justice receive Interruption, if not by the King?

Page 464.

Recorder: I do agree, as we say, and the King himself said, that these Acts were not passed, nor the Lords tried, and so Justice was not done. It is a natural Truth, that thereby the Trial and Acquittal, or Condemnation of the Lords was interrupted; and so was the Security of the King's Person and the Protestant Religion. This is not charging of the Interruption of Justice upon the King: For if I have but one private Bill passing in the Parliament, and a Prorogation comes, it is naturally true, that this is interrupted; but that is not laying the Blame on the King, because, tho' it may be prejudicial in one particular, yet it may be useful to the Publick.

Objections to
the Petition, to
be answer'd.

Lord Chief Justice: The Petition does say, that the Publick Justice was interrupted; did they mean it was true? If it be true, justify it, if you can; and if the Matter were not true, why do you put in your Petition? Had the Common Council any Right, by Charter or Prescription, to controul the King? By what Law is the Printing
and

and Publishing this Petition to be justified, and the Sending it all over the Nation? If you print a Libel, though the Matter of it be true, you shall be punish'd for it: Now, when it is argued again, I would desire some good Satisfaction on that Head.

As for the other Point, you hold that a Corporation cannot be forfeited; you say, that by the Common Law, Corporations cannot forfeit their Being; if so be they cannot, there is an End of the Question. But I pray you, do you take it that a Corporation can commit any corporate Act, or no? Either the Mayor, Aldermen, and Common Council are the governing Part of the Corporation, or they signify just nothing: If they be, then whatsoever they agree upon binds the Whole, and must be taken as a corporate Act; or otherwise you will bring it to this, that the Corporation can do nothing at all. For if the whole Corporation be not bound by such an Act, then it is impossible for you to do an Act that shall be the Act of the Corporation.

Acts of the Mayor, &c. Acts of the Corporation, or nothing.

Then surely the Power of making By-Laws is annexed to the Corporation; and if so, consider whether, when they have abused that Power, in making this By-Law, it does not affect the Being of a Corporation? For it is strange a Corporation should commit a Fault, and not be punish'd for it.

Powers abus'd affect their Being.

But I deliver no Opinion in any Thing now; only tell you what I would have you apply yourselves to, and give me some Satisfaction.

The *second Argument* of this Case was in *Easter-Term*, on *Friday, April 27.* by *Sir Robert Sawyer*, Attorney General, for the King; and *Page 465.* *Mr. Henry Pollexfen*, for the City.

Attorney General: This *Quo Warranto* is not brought to destroy, but to reform the Government of the City of *London*, by Pruning off those Exorbitances of Power which some Men have assumed (contrary to Law) under Colour of their corporate Capacity, to the Reviling of their Prince, and the Oppression of their fellow Subjects: And these Exorbitances committed by the City,

Attorney General's Argument for the King.

City, casting so great an Influence over the whole Kingdom, make the King's Interposition in a Course of Law at this Time necessary.

Case of great Importance.

The Importance of this Case, both to the King and his Subjects, appears now far greater than before, from the Manner and Grounds of the Defence made at the Bar, *viz.* from the general Topics, that Corporations are immortal and indissoluble; That no Treasons, Felonies, or Seditious, can be committed by them, or affect them in Point of Forfeiture: But a Corporation once constituted, is out of the Reach of the Common Law.

General Question in it.

The general Question here is, Whether the Mayor, Citizens and Commonalty of *London*, have forfeited their *Right* of Being and Acting as a Body Politick, and subjected that Right to be seized into the King's Hands? But before we come to this, certain preliminary Points are to be debated, some moved to the Form of the Suit and Pleadings, and others relating to the Matter thereof: As that the Information is not well laid, because not brought against particular Members by Name; That the Replication is worse, because it denieth *London* to be a Corporation, which the Information allow'd; and that no Judgment can be given upon these Pleadings, either of *Seizure* or *Ouster*.

Page 466.

Answers to the Objections to the Information.

In Answer to these Objections, the Precedents produc'd by *Mr. Recorder*, do prove that the King's Suit may be brought against particular Persons by Name, and against the Rest of the Corporation, by a general Name of *Et alios Homines & Burgenses, &c.* or against particular Persons, and also against the Corporation, by the very Name of Incorporation, as the Case of the *Bermudas* Company: But they do not argue the King hath not a further Election, either to bring his Suit for Questioning the Corporation, by its proper Name, without naming of particular Persons, or by some other general Name, which sufficiently describes the Persons.

The

The King's Suit, by Indictment or Information, for not Repairing of Highways, Nufances, &c. hath been used both Ways; by naming some few particular Inhabitants, with a general Reference, & *alios Inhabitantes*, which is essential; or by the general Name of Inhabitants within a Parish, Hundred or County, as the Case required, without particularly naming any Inhabitants at all: To produce Instances of this Nature would be infinite. *Hill. 40 Eliz. R. 38.* A *Quo Warranto* was brought by the Queen's Attorney, against *Homines & Tenantes Manerii de King's Haurston in Com. Bedford*, for claiming to be discharg'd of Knight's Wages, &c. They pleaded the Manor to be antient Demesne; and their Plea was confessed, and Judgment for the Tenants, without naming any particular Tenant. And in a *Quo Warranto* against the Inhabitants of *Denbigh* for using several Liberties; upon Plea and Demurrer, Judgment of Seizure is given, & *quod Inhabitantes capiantur. Mich. 27 Eliz.*

May be brought generally, or against particular Persons.

These general Names of Inhabitants and Tenants, were sufficient Descriptions; *Cives, Burghenses, & Communitas* of such a Place, are general Names to describe the Inhabitants of the Place by, antecedent to their being a Corporation. By these Names they are capable to take this Right of Incorporation by the King's Grant; and of Consequence they may be sued by the same Name they took, when they are question'd for this Right: So that *Mayor, Citizens, and Commonalty of London* being a general Name, sufficiently describing the Persons against whom the Suit is brought, may be used in the King's Suits, without any Conclusion to the King, that they were a Corporation.

If general, no Conclusion to the King.

Page 467.

But it is yet stronger, where one of the Articles of the Suit is for Usurping the corporate Right; that prevents all Colour of Pretence for any Conclusion: And in Cases, where the Questioning the Right is a special Article, the Form of the Information is the same against all Corporations, whether by just Title, or usurp'd; the Suit sup-

Here's a Right question'd, and that first determin'd.

poseth them all to be by Wrong, and that cannot be known 'till the Title by Pleading be disclosed and discussed: Nor where the King proceeds for a Forfeiture, is the Right determined until Judgment of Seifure.

Traverse in the Replication.

Page 468.

In the Replication, the Traverse of the Title by Prescription is pursuant to the Information, which supposes they have usurp'd that very Liberty, and puts them upon shewing their Title by that Name; and then the Traversing of the Prescription by such Name is no Denial; but it may be a Corporation by Prescription by another Name, or it may have that Name also by Grant. The farther Replication is, That they committed the several Acts, which are assign'd for Breaches and as a Forfeiture: And the King may plead several Pleas, and take several Issues, and demur to Part, as he shall be advised.

Right of Incorporation may be forfeited.

The Objection, That no Judgment can be given upon these Pleadings, I shall leave to be consider'd when I come to the main Argument; and proceed to consider the Points moved relating to the Matter, Whether the Right of Incorporation of being a Body Politick may be forfeited, or seized into the King's Hands. As to the Right of a Corporation aggregate, it is a Right granted to many natural Persons to be, have, enjoy, and act as one Body and Person: So that it is something more than a Name or Notion; for *Corpus Corporatum* fully expresseth it, a Body made up of several visible Bodies *in unum collecta*: And tho' the Commission or Authority be not seen, yet the Body is seen by all.

The Right explained.

Page 469.

It is allow'd in *Bagg's Case*, Co. 11. That it is such a Right, that every Member hath a Freehold therein; and all have an Inheritance which may go in Succession: Natural Persons are capable of taking and holding this Right; it is neither taken nor held in their Politick Capacity, but their Natural: And as the natural Persons are an essential Part constituting the Body Politick; so all the Operations and Exercise of this Right are perform'd by them. 21 *Edw. 4. fo. 14.* And the Question

Question is this, what Acts or Omissions of the natural Persons will affect a Right, wherein all the Members of the Body have an Interest.

This Right is of human Institution, and is directed and supported by the municipal Laws of each Country, and for that Reason stiled *Political*: By our Laws it is lodged in the Crown, and thence only is derived; none can make a Corporation but the King. *Bracton*. By the Policy of our Laws, the Intent and End of all Civil Incorporations is in order to better Government; and this Government is general, relating to Persons, or special, relating to Things: The Corporations for general Government are those of Cities and Towns, Mayor and Citizens, &c. and for special Government, such as the College of Physicians, Corporations for Trade, Hospitals, and Houses for Charity. The Limits and Extents of all these Corporations, are limited by their Charters: And many Liberties of Ease and Profit, are granted to them *pro meliore sustentatione* of the Charges of the Government.

Supported by Laws, and stiled *Political*.

Page 470.

Mr. Recorder says, That a Corporation is no Liberty or Franchise, but a Capacity only of Suing, and being sued; That in its Nature it is not capable of being forfeited or dissolved; and that it cannot be surrendered. Now the Authority in *Coke's Institutes*, p. 250. is express against him, that a Body or Person Politick hath a Capacity to take in Succession, and is not a meer Capacity; and it is a great Mistake to think that Corporations and Capacities are synonymous.

A Corporation not a meer Capacity.

There are many Cases, which call a Corporation a Franchise or Liberty; and every Liberty and Franchise carries with it a Condition, that it be used, and well used, the Breach of which will amount to a Forfeiture. In all the Records of *Quo Warranto*, wherever there is a special Article against a Corporation for being a Body Politick, it is always impeached by the Name of a Franchise and Liberty: And the Writs of *Non omittas*, for entering into Corporations, and the Returns of

Liberties and Franchises carry a Condition to be well used.

their Bailiffs, do make out evidently, that Corporations are Franchises.

Page 471.

The Argument, that Corporations are invisible and immortal, was certainly fetched from the Clouds at the City's Charge; for I cannot believe it could enter into the Reason of any Man. And where learned Men have used such Expressions, they are of Corporations in Abstracts, not coupled with particular Men of this or that Town, where the Men act all, and the Corporation doth nothing otherwise than what the Men do: If it be consider'd abstracted, it is but a bare Right, and remains only in Notion; and may well enough sustain these Epithets which have been given it.

Case, that Corporations never die, truly stated.

As for the Case cited 1 *Inst.* 9. it is thus: If a Man gives Lands to a Mayor and Commonalty, or other Body aggregate, consisting of many capable Persons, without naming Successors, the Law construeth it a Fee-simple, because in Judgment of Law they never die: And if this be any Authority, it is from the Immortality of many Persons capable; for they are the Persons who are said in Judgment of Law not to die. My Lord *Coke's* Sense is plain, that these Persons, though capable to take jointly in their natural Capacities, which the Law would adjudge an Estate for Lives; yet the Grant being made to them by their corporate Name, they take in that Capacity, and the Grant is not determinable upon their Death, but shall continue with the Corporation whilst it continueth.

Body Politick not immortal, but the Persons capable.

That my Lord *Coke* never dream'd of Immortality of a Body Politick, fully appears in his Writings, 1 *Inst.* 13. where he mentions the Case of a Dissolution by Death of Abbot and Monk: He after puts the Case generally of other Corporations; as Dean and Chapter, Mayor and Commonalty; if Lands be given to them, and the Corporation is dissolv'd, the Lands shall escheat to the Donors upon a Condition in Law: And that he understood it of other Dissolutions than by Death only, he refers to the Case of the *Knights Templars*, which was not dissolv'd by the Deaths
of

of the Members, but upon the Ground of Non-User.

The Matter alledg'd by Mr. Recorder, That a Corporation could not be surrender'd, hath no Authority of Law to support it: In the Case of the Dean and Chapter of *Norwich*, Mich. 40 & 41 *Elizabeth*. It is admitted both by the Counsel and the Judges, that the Corporation might be surrendered; but not without the Bishop, because he had an Interest in them: And for that the Bishop was no Party, nor Consenting, therefore the Surrender did not dissolve the Corporation. Page 472.

There is no Difference between Seizures and Forfeitures of Corporations: My Lord *Coke* says, there are three Causes of Forfeiture, or Seizure of Offices for Matter of Fact, *Abuser*, *Non-User*, and *Refuser*; he makes the Causes of both to be the same; for Forfeiture is but the Fact upon which the Seizure is grounded. If Liberties are seized for an Abuser, be it by Judgment, or upon an Inquisition, or Presentment finding the Abuse; can it be a Question with any learned Man, but the Seizure is for the Forfeiture? The King cannot seize without Cause, and the Cause must be some Fact in Breach of the Condition in Law annexed to the Liberty. Seizures and Forfeitures of Corporations all one.

The Cases refer'd to make nothing to prove that Seizures by the King for Mis-Users are not for Forfeitures; or that Judgment of *Ouster* is only Evidence of a Forfeiture; or to prove a Seizure in the King's Suit, is of the same Nature as the *Grand Cape* upon mean Process in the Suits of common Persons. And that the Judgment in a *Quo Warranto* may vary, I shall endeavour to make out by Stating the Matter how it stands as to Seizures of Liberties: Now Liberties may be seized into the King's Hands by Award of the Court, in two Cases principally; where the Defendants are summon'd to appear at the King's Suit, and make Default; and where a Contempt appears upon Record, in not returning or executing the Process. Page 473.

In what Cases
Seizures may
be made, for
Defaults, &c.

If by Award of the Court, on Default of Appearance at the Suit of the King, a Seizure is made, it is in Nature of a Distress to bring in the Party, by putting him out of the Possession of the Liberty, till he appear and replevy; for the Court, if the Defendants come in Time and pray it, may deliver them the Possession upon Replevin, by the Statute 30 *Ed. 1.* But if the Party do not replevy in Time, the former Seizure will amount to a Seizure after Judgment by Default, which is final. And where Liberties are seized into the King's Hands by Judgment of Court in the King's Suits, whether it be by Default, or *Nihil dicit*, upon Demurrer, or Issue tried, this Judgment is final; and the Court is to set a Fine upon the *Capiatur*, but not the Fine for Redemption; that is purely in the King's Breast, and *ex gratia Regis*.

Ouster and
Seizure, the
Difference.

The antient Rule, as to Ouster and Seizure is thus: Where it clearly appears to the Court, that a Liberty is usurp'd by Wrong, and upon no Title, there Judgment only of Ouster shall be entered; but if it appears that the King, or his Ancestors, have once granted a Liberty, and it is misused, Judgment of Seizure into the King's Hands shall be given: And that which came out of the King's Hands, as *Bracton* says, is properly return'd there again by Seizure. If it is doubtful, Whether the Liberty commenc'd by Grant, or by Wrong, the Course has been that Judgment be given of Seizure: And where Grants have been made, but the Parties are not capable of Taking, or the Liberty granted is not allowable by Law, it is usual to enter a mixed Judgment of Seizure and of Ouster.

Page 474.

There are Seizures by Commission of Inquiry on Inquisition found, or upon Presentment; and such are always for Forfeitures, on Faults found in Breach of Conditions annex'd by Law: And the King is in Possession of all incorporeal Rights by such Seizures upon Inquisition. *Pasch. 17 Jac. 1.* The Seizures upon Judgments, or for a Forfeiture, do as effectually put the King into Possession, and oust the natural Persons from using the Right, as any

Seizures upon
Judgments put
the King in
Possession.

any Judgment of *Ouster* whatsoever: And the Difference between such Seizures, and those which are only in Right of the Subject, is too apparent to be further enlarg'd upon.

The Averment, That whilst the City of *London* lay under the several Seizures, sometimes of the Mayoralty only, at other Times of the whole Franchise, the Corporation was not so much as suspended, but did exercise all corporate Acts as before, is against the exprefs Sense of all the Citizens when under those Seizures, and many Authorities of Law: For at the Parliament 18 *Ed. 1.* the Citizens petition'd the King, to be restored to the Mayoralty, and their antient Liberties, which were under Seizure in the King's Hands; and if the Corporation had been *in Statu quo*, they would not have troubled the Commons to present such a Petition: If the Commons of *London* meet on *Michaelmas-Day*, and chuse a Mayor, the old Mayor not present, the Election is void; and so of any other Act without the Mayor. 24 *Ed. 4.* 27. Page 475.

I have now remov'd the Objections which lay in my Way, by opening the Nature and Effect of Seizures of Liberties; whereby it may appear, that this special *Capias in manus Regis* is as proper an Execution against the Body Politick, as the common *Capias* against the Body natural; and in Judgment of Law the Politick Person is as properly said *civiliter Mortua* by Judgment of Seizure, as the natural Person is by any Attainder for a capital Offence. It is acknowledg'd, that in Case of natural Persons, when the Law gives Forfeiture of the Body, or of the Liberty of the Body, it is all one; and the Law is the same when it speaks of Bodies Politick, to forfeit the Liberty of the Body Politick.

Corporations may be seized into the King's Hands, as well as Offices, or any other Liberties; and the Condition implied by Law is of stricter Obligation than Conditions exprefs; it shall bind Infants, &c. 8 *Co.* 44. Indeed the principal Case is of Offices; but the Book saith, So it is of all

Capias in manus Regis, a proper Execution.

Corporations as well as Offices seizable.

Liberties and Franchises. And therefore in Franchises, if the Franchise be for the better Administration of Justice, and of Necessity, *Non-User* will be adjudg'd a Breach of the Condition; but where it is not of Necessity, bare *Non-User* will not be a Breach, yet *Refuser*, which is an obstinate and wilful *Non-User*, may be so; and in Case of all Franchises, *Abuser* was ever judged a Breach of the Condition.

And have greater Trusts than other Liberties.

Now this Franchise of a Corporation is granted upon a far greater Trust and Confidence, than any other Liberty; it being for the Government and Peace of the Inhabitants, in Subordination to the general Government of the King; and they are intrusted therewith upon the publick Account of Government only, and not for any private Respect or Benefit. And if *Non-User* in some Cases will forfeit a corporate Right; no Reason can be given why *Misuser* or *Abuser* will not do it.

Page 476.

Breach of Trust, a Forfeiture.

There is a Condition annex'd to the Franchise of every Corporation, the Breach whereof is a Forfeiture: And the greater the Trust is, the Stronger is the Condition. Single Bodies Politick have indisputably such Conditions annex'd to them upon the Trust of their Creation; and breaking the Condition is in Law good Cause of Separating the Politick Person from the Natural, by Deprivation, which in the Civil Law is of the same Effect as Judgment of *Ouster* by the Common Law; and their Suspension hath a Resemblance with our Seizures into the King's Hands. Bishops, Deans and Chapters, &c. if they offend the Laws, may by Law lose their corporate Right; and not only Treason and Felony, but far less Misdemeanors committed by the natural Persons, will forfeit the corporate Right.

The various Causes of Forfeiture of a Corporation.

In Sir *James Bagg's Case*, 11 Co. 98. the Causes of Forfeiture are generally determined; as whatever is contrary to the Duty and Trust of a Member, especially if the Fact is contrary to his Oath; Attainders, Forgery, Perjury, Conspiracy, or any other infamous Crimes; and if these will be sufficient Cause, there can be no Doubt but Treasons, Felonies,

Felonies, Seditions and other Attempts in disturbing the Government, will be good Causes of Disfranchisement of any or many of the Members, who commit such Crimes. And if it be objected, that the King cannot disfranchise or remove any Member, the King doth it, when the subordinate Ministers within the Corporation do it; for they do it in Execution of his Laws.

Any Member of the Body of a Corporation may forfeit his Corporate Right, and be deposed of it; and what any Member may forfeit, every Member may; and the same Acts which incur the Forfeiture of a Member separately, if done jointly by all the Members, will have the same Effect. And although what Acts of the Members, and of what Number of them, shall forfeit the whole Franchise, is no where distinctly related, but as they lie scattered in the Instances of Forfeitures taken, and Franchises seized, otherwise than upon the General Rules of *Non-user* and *Abuser* of the Trust committed by them; yet the Civilians, who largely treat on these Questions, have concluded the Point upon Debate and Reason of Law, that Corporations may be forfeited, when their Privileges, as used by the Members, *incipiunt esse iniqua vel Damnosa*.

A Member may forfeit, and so the Whole.

Page 477.

If there be a Failure of Justice in a Corporation, which the Law will not permit, by Judgment of Law, the City or Town shall be restored to the Government and Jurisdiction of the Common Law, by Seizure of the Franchise into the King's Hands as forfeited. Nor is there any Thing extraordinary in the Nature of Corporations aggregate, to exempt them from the Condition of single Corporations: The Number of the Persons constituting this Body, contributes nothing towards the Indissolubility thereof; for they were several natural Persons before the Union, and remain so many natural Persons; and by retaining their natural Capacities, are as capable of being separated, as they were before capable to be united.

Where Failure of Justice, Franchises to be seized.

From

Page 478.

They may be
dissolv'd.

From the Nature of the Right or Franchise, little can be inferr'd for the inseparable Union pretended: In it's Creation, it is merely by the Policy of Man; and what is by the Law of Man may be alter'd; and it is a certain Rule, *Quicquid colligitur, dissolvi potest*. All Rights whatsoever are incorporate; and as to this Right, whether it be consider'd as a Right of taking and holding in another Capacity than that of natural Persons, or of taking in Succession, under neither Consideration can it import any inseparable Quality.

Remedy for
Breaches of
Trust by Seizure.

In all the Cases of our Law, wherever any Persons take another's Capacity than their own, it is ever upon Trust; and where the Law creates the Trust, it provides a Remedy, if the Trust be broken, for the putting it into safer Hands. And upon the Grounds that there is a Condition annexed to all Corporations, and that they are liable to be seised for Breaches of that Condition; I conclude Corporations may be taken into the King's Hands by Seizure, which is a Separation of the Liberty of being a Body Politick from the natural Persons; and by this Separation the natural Persons shall be under the Government of the Common Law.

Otherwise independent
Commonwealths may be
set up.

If the Law were otherwise, it would set up independent Commonwealths within the Kingdom; and according to the Judgment of the Parliament 21 *Ed. 3.* would certainly tend to the Overthrow of the Common Law, and the Crown too, in which all Sovereign Power to do Right, both to it self and the Subjects, is only lodged. The Punishments mentioned by Mr. Recorder for the Offences of a Corporation, must be intended by Fine, or at the Suit of the Persons injured by their Oppressions; but that is not a sufficient Remedy to cure the Mischiefs, whilst the Cause still remains, and is in as great Power to oppress as before; which nothing can sufficiently restrain, but the Loss, or at least the Fear of losing that Power.

The

The Case of *Sandwich* cited 9 *Ed. 1.* was a Judgment of the *King's Bench*, and not an Act of Parliament; the Forfeiture of the Liberty was adjudged on an Information for a Crime committed by the Mayor and others, in a Matter relating to the whole Liberty. And before this the Franchise of *Sandwich* was seised into the King's Hands as forfeited, for a notorious Riot committed by the Inhabitants. 3 *Ed. 1.* In which Case, their Submission to the King under their Common Seal, was adjourn'd into Parliament, and the Mayor, Bailiffs and Commonalty order'd to be there at a certain Day: Upon Hearing whereof, Judgment was given by the Parliament, but it was agreeable to the Forms of Judgment in the Common Law Courts.

Page 479.

Forfeiture of Liberties on an Information.

Adjudg'd in B. R. and judicially by Parliament.

And the Case of the Town of *Cambridge*, was not by Act of Parliament, as appears by the Record, 5 *R. 2.* 45. The Mayor and Bailiffs, after divers Pleadings and Proceedings, submitted to the King's Grace; whereupon Judgment of Seizure was only given: And throughout the Record, it appeareth by all the Proceedings they were judicial; but the Plea therein to the Jurisdiction of the Court, and the Judgment by the King and Lords only, are Demonstrations it was no Act of Parliament, nor adjudg'd by the Legislative Power, but by a Court of Law.

Page 480.

Anno 7 Joh. 1. the City and Liberties of *Norwich* were seised into the King's Hands, for hanging Approvers without Licence of the King or his Justices; and the Mayor was summoned to answer for the Damage done to the King. And 21 *Hen. 6.* the Liberties of *Norwich* were again seised upon a Presentment of a great Riot, and afterwards regranted. The Liberties of *Oxford* were seised 32 *H. 3.* And the King in the same Year pardoned them, and granted a Writ of Restitution. *Ann. 18 Ed. 1.* The Town of *Southampton* was seised into the Hands of the King, for wounding an Officer in serving the King's Writs: They after submitted to a Fine, and took a new Grant. And 20 *Hen. 3.* the Liberties of *Evesham* were seised

Cases of Seizure for various Causes.

Page 481.

Page 478.

They may be
dissolv'd.

From the Nature of the Right or Franchise, little can be inferr'd for the inseparable Union pretended: In it's Creation, it is merely by the Policy of Man; and what is by the Law of Man may be alter'd; and it is a certain Rule, *Quicquid colligitur, dissolvi potest*. All Rights whatsoever are incorporate; and as to this Right, whether it be consider'd as a Right of taking and holding in another Capacity than that of natural Persons, or of taking in Succession, under neither Consideration can it import any inseparable Quality.

Remedy for
Breaches of
Trust by Seizure.

In all the Cases of our Law, wherever any Persons take another's Capacity than their own, it is ever upon Trust; and where the Law creates the Trust, it provides a Remedy, if the Trust be broken, for the putting it into safer Hands. And upon the Grounds that there is a Condition annexed to all Corporations, and that they are liable to be seised for Breaches of that Condition; I conclude Corporations may be taken into the King's Hands by Seizure, which is a Separation of the Liberty of being a Body Politick from the natural Persons; and by this Separation the natural Persons shall be under the Government of the Common Law.

Otherwise independent
Commonwealths may be
set up.

If the Law were otherwise, it would set up independent Commonwealths within the Kingdom; and according to the Judgment of the Parliament 21 *Ed. 3.* would certainly tend to the Overthrow of the Common Law, and the Crown too, in which all Sovereign Power to do Right, both to it self and the Subjects, is only lodged. The Punishments mentioned by Mr. Recorder for the Offences of a Corporation, must be intended by Fine, or at the Suit of the Persons injured by their Oppressions; but that is not a sufficient Remedy to cure the Mischiefs, whilst the Cause still remains, and is in as great Power to oppress as before; which nothing can sufficiently restrain, but the Loss, or at least the Fear of losing that Power.

The

The Case of *Sandwich* cited 9 *Ed. 1.* was a Judgment of the *King's Bench*, and not an Act of Parliament; the Forfeiture of the Liberty was adjudged on an Information for a Crime committed by the Mayor and others, in a Matter relating to the whole Liberty. And before this the Franchise of *Sandwich* was seised into the King's Hands as forfeited, for a notorious Riot committed by the Inhabitants. 3 *Ed. 1.* In which Case, their Submission to the King under their Common Seal, was adjourn'd into Parliament, and the Mayor, Bailiffs and Commonalty order'd to be there at a certain Day: Upon Hearing whereof, Judgment was given by the Parliament, but it was agreeable to the Forms of Judgment in the Common Law Courts.

Page 479.

Forfeiture of Liberties on an Information.

Adjudg'd in B. R. and judicially by Parliament.

And the Case of the Town of *Cambridge*, was not by Act of Parliament, as appears by the Record, 5 *R. 2.* 45. The Mayor and Bailiffs, after divers Pleadings and Proceedings, submitted to the King's Grace; whereupon Judgment of Seizure was only given: And throughout the Record, it appeareth by all the Proceedings they were judicial; but the Plea therein to the Jurisdiction of the Court, and the Judgment by the King and Lords only, are Demonstrations it was no Act of Parliament, nor adjudg'd by the Legislative Power, but by a Court of Law.

Page 480.

Anno 7 Joh. 1. the City and Liberties of *Norwich* were seised into the King's Hands, for hanging Approvers without Licence of the King or his Justices; and the Mayor was summoned to answer for the Damage done to the King. And 21 *Hen. 6.* the Liberties of *Norwich* were again seised upon a Presentment of a great Riot, and afterwards regranted. The Liberties of *Oxford* were seised 32 *H. 3.* And the King in the same Year pardoned them, and granted a Writ of Restitution. *Ann. 18 Ed. 1.* The Town of *Southampton* was seised into the Hands of the King, for wounding an Officer in serving the King's Writs: They after submitted to a Fine, and took a new Grant. And 20 *Hen. 3.* the Liberties of *Evesham* were seised

Cases of Seizure for various Causes.

Page 481.

seised for using false Measures; but upon Submission of the Abbot and Monks, the King granted them Restitution.

Restitution awarded.

In all these Cases Restitution was not granted by the Court, but by the special Grace of the King, after Submission to him, and upon such Terms as he was pleas'd to accept; and in some Cases he restor'd them to the Whole, in others but to Part of the Liberties. The Liberties of Corporations have been seised into the King's Hands in Cases of *Quo Warranto* against them by the Corporate Name; as they were in the Case of the Bailiffs and Commonalty of *Lancaster*. *Fitzh. 129.* And in a *Quo Warranto* against the Bailiffs and Burgeesses of *Berkhamstead* in *Hertfordshire*, Judgment of Seizure was given *pro defectu Responsi*, and they are no Corporation to this Day. *Pasch. 16 Car. 2.*

Page 482.

It seems a strange Question, that when to assemble, consult, determine, and to make Orders and By-Laws for the Rule and Government, is incident to every Corporation, and that herein only consists the politick Reason of the whole Body, it should be doubted, whether what they determine and resolve upon, being so jointly assembled, be a Corporation Act?

The Common Council, and their Power.

Now upon the Erection of all Corporations, the Power of assembling, deliberating and determining for the Corporation, is either entrusted with a few particular Members, or with the whole Body, and that expressly or by Implication. And the Law, in such Case, lodgeth the Power in all the Members of the Corporation, and the Whole jointly assembled (or so many of them as upon Notice shall appear) constitute the Common Council: And such Assembly is not stiled the Common Council from giving of Counsel and Advice, but from their assembling and consulting for themselves, who constitute the Body Politick; in the same Sense, as the Parliaments of *England* have been called the *Common Council* of the Kingdom.

Their Acts, the Acts of the whole Body.

This Power may be in the major Part, which always binds the Whole, or be lodged in or delegated

gated to a certain Number ; in such Case where the Power is transferred, those Members to whom it is transferr'd constitute the Common Council in the same Manner, and their Acts are of the same Obligation, (unless the Delegation were not general) for they are the Acts of the whole Body. I have already shewn, that there are no Acts of the Corporation, but what are perform'd by the particular Members : And it was resolv'd in the Case of the Mayor and Commonalty of *Lincoln*, that the Act of two Burgeſſes did oblige the Corporation, and that the Taking of Toll by their Officers, was a Taking of Toll by the Corporation ; because all the Members cannot by any common Intendment be understood to meet together to take Toll. 48 *Ed.* 3. 17.

There can be nothing more vain than the Assertion that no Acts are Corporate Acts, or can affect the Corporation, but what are under the Common Seal : Then no Mayor, Sheriffs, or other Officers, ever acted legally in their Choice by the Corporation, because not under the Common Seal ; then no By-Laws are valid as Corporate Acts, because not under the Common Seal of the Corporation ; and the same may be said by most of the Corporate Acts in Cities and Towns.

Page 483.

Such Acts good, tho' not under the Common Seal.

It appears by the Charter in Parliament 1 *Ed.* 3. that *Libertas Civitatis*, which is the Franchise or Corporation of the City, had been and might be seized for some personal Miscarriages of the Ministers ; and say they, the Common Council are our Ministers : It was merely the King's Grant that exempted them from it for the Time to come ; but this Charter did not prove of any great or long Advantage to the City, in differing them as to this Privilege from other Corporations. For by the Stat. 28 *Ed.* 3. they are made subject to a Forfeiture of 1000 Marks for the first Offence, and 2000 Marks for the second, and for the third Offence, the Franchise and Liberty of the City shall be taken into the King's Hands ; and this is for the Defaults of their Ministers, in the good Government of the City. Nor could the City obtain

Page 484.

Franchise of the City may be taken into the King's Hands.

tain from King *Henry 4.* any more as to the Forfeitures for the personal Offences of their Ministers and Officers, than to be put into equal Condition with other Cities and Boroughs. 1 *H. 4.*

Page 485.

Liberty of the City seised.

So that from this Time the City of *London* never could pretend to any other Exemption from Forfeiture of their Franchise than other Cities may. In the 16 *R. 2.* a Commission issued to several Lords and Judges, to enquire of the Defaults of the Mayor, Aldermen and Sheriffs, upon the Stat. 28 *Ed. 3.* And they were convicted of several Miscarriages, and the Liberty of the City was taken into the King's Hands; and the King, by Advice of his Council, constituted a new Mayor, and two Sheriffs, and Twenty-four other Aldermen, in the Room of the others, and they all took their Oaths before the King and his Privy Council.

And a *Custos* appointed.

The Kings of this Realm have appointed a *Custos* of the City, with Commission to amerce and punish the Aldermen and others, according to their Demerits; and there can remain no Question, but that the Mayor, Sheriffs, Aldermen, and all the Commons in Council assembled, may commit Acts, for which their Franchise may be seised. The Offences wherewith they are here charged, are laid to be committed by the Mayor, Citizens and Commonalty of *London*; the whole Body plead to it, and it must be intended they are the same Persons that are sued and defend upon Record, which are all the Members of the Corporation.

The Pleading in this Case.

Page 486.

Upon the Pleading, the Mayor, Citizens, and Commonalty have confessed that the By-Law for levying of Money was made for them, and the Money to be levied to their Use; and also that by Force of that By-Law, they exacted and received the Money; but as to the making the Law, they neither confess it made by themselves, nor by any deriving Authority under them; neither do they deny it. If Mr. Recorder would have the Court intend, that the Common Council, set forth in the Rejoinder, is a distinct Body of Men from

from the Politick Body of the whole City, the Plea amounts but to the General Issue; but at present it cannot be otherwise intended, but that they that made this Law and this Petition, were the Mayor, Citizens, and Commonalty, who are expressly charged therewith; and in their Pleas they do traverse or deny it.

I come now to the main Point of the Case; Whether by any Thing disclos'd upon those Pleadings, there appears a sufficient Title to the King, for the Court to give Judgment of Seizure of the Franchise of the City of *London*? The Title I insist upon is for a Forfeiture by Acts done by the Mayor, Citizens, and Commonalty, in Breach of their Duty and the Publick Trust reposed in them; and the Causes assigned are sufficient: The Crimes laid to their Charge, which will amount to a Forfeiture of the Franchise, are two in general. 1. Oppression of the King's Subjects by Colour of Law. 2. Stirring up Seditions by libelling their Prince and his Government.

Causes assign'd
sufficient for
Judgment of
Seizure.

These two only are laid in the Replication, though collected out of many Causes for Seizure of any Franchise; as the Riots committed in the Face of Justice, and the Tumults of many Thousands, not suppressed or punished by the Magistrates, but countenanced and encouraged by them: And in these *London* hath but imitated it self in former Times, and other Cities and Boroughs; but in the Points insisted upon, it hath out-done it self and all other Cities. Never did *London* before now, or any other City, commit the like Breaches upon the Government, to assume a Power superior to any the King hath in like Cases, to lay Burdens upon the People, and levy Money; and to invade the King's Prerogative, by deliberating and determining of his publick Actions, and publicly libelling them to the rest of his Subjects.

London hath
out done it self
all former
Times.

To lay Impositions upon the King's Subjects was not only an Incroachment on Royal Power, but of the Power of Parliaments; and Incroachments of Royal Power were Treason, to be determined

Page 487.

Incroachments
and Crimes.

mined by the Judges, before the Stat. 25 *Ed. 3.* It is evident, they have an immediate Tendency to a Rebellion; and for so great a Body of Men to adjudge and publish, that the King by his Prerogation, hath interrupted the publick Justice of the Kingdom, and the necessary Provisions for his own Safety, is in Effect to denounce him unfit for the Government, and by Consequence must alienate the Affections of such as believe them.

Levying Money on the King's Subjects.

As to the Levying of Money, the City of *London* have by several Charters express Power given them to do it; but it is confined to their own Community. Neither the King, nor the Law, ever gave them any Authority over Foreigners, to charge them for the private Profit of this City; and to assume such a Power is a plain Usurpation by a Body Politick upon the Crown and the Law, and a manifest Breach of their Trust for good Government, by an open and avow'd Oppression of the King's Subjects.

By-Laws for levying Money how taken.

Page 488.

Mr. Recorder says, That in all the Suits where By-Laws have been adjudg'd unreasonable and void, it was never held that such By-Laws forfeited the Corporations; and if it should, every little Mistake would forfeit a Corporation. In Answer to this, There was no Occasion for the Court to declare, in Suits between Party and Party, how far the By-Law has intrench'd upon the Prerogative: And there is a Difference between By-Laws for regulating the Actions of the Members and others within the Corporation, with a Penalty to enforce Obedience, and a Law directly for levying of Money; for in the latter Case, the Levying of the Money is the principal End of the Law; and to levy it for private Lucre, can receive no Palliation from being a Mistake against all the Laws and Authorities that are extant.

This By-Law of the Citizens, arbitrary and illegal.

That which shelters all other By-Laws, is wanting in this; that as to the Recovery of the Penalty, they refer to a Course of Law, whereby they submit their By-Law to the Judgment of Law for its Validity, that if they have committed any Mistake, it may be corrected by Law: But here

here the Remedy is plain Force ; if the Person do not pay, he shall be turn'd out of the Market. The Right of all the King's Subjects, to come with Provisions to publick Markets, is as great as of the Lord Mayor, or of any of the Citizens to come there ; and the Putting such Terms upon their Right, is arbitrary and illegal.

In Case of Errors committed, those are not to be justified upon a Question of Right between the King and the Corporation, in a *Quo Warranto* ; if they be, they are wilful Crimes : And if the Corporation have broken their Trust, and it be so adjudged, Forfeiture is a necessary Consequence. The Stat. 19 Hen. 7. c. 7. extends not to By-Laws of Cities and Boroughs incorporated, but to Guilds and special Fraternities, and was made for greater Caution that they put no new By-Laws in Ure 'till allowed ; though the Allowance makes them neither better nor worse, only shelters for the 40*l.* Penalty, as in the Case of the Taylors of *Ipswich*.

By Laws extending to Guilds only.

If the Justification be insufficient, the Court cannot otherwise judge of the Crime than as it is laid in the Replication ; where it appears to be as great Extortion and Oppression of the Subjects, as ever was practis'd. And in their Justification, they plead a Custom to hold Markets, and Title to them by Prescription ; but claim not any Toll of common Right, so that they must be intended Free Markets. Mr. Recorder would justify his Plea, that a general Claim of Tolls, Rates, or Sums of Money, is a sufficient Justification of particular Charges, which are against common Right ; but tho' Toll, according to common Right, may be granted by general Words, it has been held, that Toll against common Right could not, nor be prescribed for but in Certainty.

Page 489.

Toll against common Right, prescribed for in Certainty.

No Man questions but Cities and Boroughs, upon good Consideration, may prescribe for Sums of Money against common Right, and prescribe for an apt Remedy for Recovery of such Sums ; though all the Authorities prove it must be prescribed for in Certainty, that the Court may judge

of the Reasonableness of it. Besides, this Custom to have Rates or Tolls is void, because they do not intitle themselves to any legal Remedy for those uncertain Sums; and they make no Title to the Land where the Markets have been, or are held, to intitle themselves so much as to Picaage or Stallage.

Page 490.

No Averment
of laying out
Money for
Markets.

They set forth a By-Law, which imports a new Imposition of several Sums to be paid to the Mayor, Citizens and Commonalty: They aver indeed, the Sums are reasonable; but set out no Fact, upon which the Court may any Ways judge they are so. They do not aver, that the Mayor and Commonalty laid out one Penny out of their Revenue, for providing the Markets and Stalls, so as to give the least Support to this extraordinary By-Law. And this Averment was left out, lest Issue might be taken upon it; and thereon sufficiently proved, that the Places, Stalls and Conveniencies, were provided for out of the Publick Money granted by Parliament, as we have set forth in our Surrejoinder.

The great Op-
pressions of the
Corporation.

This By-Law is in Breach of the Common Law Trust reposed in them, and also of the Trust by Act of Parliament: And how much superior this Offence is to those, whereon Instances have been given of Seizure, I leave to the Observation of the Court. Their Reply, That the Toll only can be forfeited, or at most the Markets, can weigh little; for to forfeit the Sums exacted can be no Punishment, as they never had any Right to them to be forfeited. And in the Case of *Maidenhead*, where a reasonable Toll was granted, they had a Right to Toll, which may be forfeited by Abuser in taking an unreasonable Toll. Then the Seizing of the Markets is no Punishment of the Corporation, but of all the King's Subjects, who are the Persons oppressed; and the Oppression is by the Corporation.

I shall conclude with the last Branch of the Crimes laid to their Charge; for invading the King's Prerogative, and publicly libelling of him and his Publick Acts to the People. The Replication

cation chargeth them with the several Facts of Page 491. ordering the Petition, and dispersing and printing it, to the Intent to alienate the Affections of the King's Subjects, and excite Sedition and Disturbance: And these Crimes at Common Law, were *Contra pacem*, and punishable by Fine and Imprisonment, as seditious Practices in particular Subjects; but where committed by Persons in publick Office, or intrusted with Government, they are of a deeper Die.

Charge of the Petition, invading the prerogative.

They own the Petition was voted, and ordered to be preferred and printed; but they do aver the Printing was to undeceive their Fellow Citizens; whereas the Charge is, that it was to deceive them. And admitting the making the Petition were lawful, there are many Things in themselves that are lawful, yet if done with an evil Intention, become unlawful and criminal; and upon *Not guilty*, Proof must be made of the evil Intent; where the Thing it self is unlawful, there needs no other Proof. Petitioning is lawful, and the City of *London* have often petitioned the King with good Acceptation, and observed a Decorum becoming Subjects; though they never till now used to meddle in Matters of State; but when sent for to advise, they confined themselves to the Affairs of the City: They are not of the King's and Kingdom's Common Council.

Some Things lawful, unlawful if done with ill Intention.

The Words of the Petition are in themselves scandalous to the King and Government; for Interruption of Justice by the Prorogation is a greater Imputation than Delay, because that may be a mere Omission; but Interruption imports some Act, whereby Justice is stopp'd; both are temporary Denials of Justice, as Denial is an absolute Stop of it: And *Nulli negabimus aut deferemus Justitiam*, are the Duty of every King. The Words can bear no other Sense, but a direct Scandal to the King, in the Point of Prorogation of Parliament: That the City so understood them is evident by the Petition, in that Clause where they say they were extreamly surpris'd at the late Prorogation. Why should they be surpris'd, if

Words scandalous against the King and Government.

Page 492.

Publish'd to
cause Dis-
affection.

Persons cen-
sured by their
Actions.

Page 493.

Publick Justice
not interrupted
by Adjourn-
ment of Courts,
&c.

the King had done nothing thereby but what was just and good for his People? It must then be some very ill Thing in the Prorogation, that so much surpris'd them, and fill'd them with such Terrors as throughout the Petition they express.

'Tis plain, their panick Fears are charged upon the Prorogation: And to what other Purpose do they publish this severe Sentence on the King's Prorogation, with their dismal Fears, but to affright the King's other Subjects, and beget the like Fears in them? The natural Consequence whereof is to withdraw their Affection.

Mr. Recorder endeavours to evade the Scandal of the Words by proper Answers; that these Words are not spoken of the King, but of the Prorogation, as Consequences of it? Is not this Quibbling? The Prorogation is only the King's Act of proroguing the Parliament; and to charge the Acts of a King, or other subordinate Magistrate, in Execution of his Office, with Injustice, is the same Thing as to charge the Persons themselves. The Acts of inferior Magistrates are not to be examined, censured and adjudged, much less scandalized by those that are under their Magistracy; that would let in Confusion, and overthrow all Government: They may be judged by Superiors, but not by Inferiors.

No Lawyer can truly say, That by the Putting off the Cause, the Prosecution of Justice hath been interrupted: Or will it be any Justification for him for such Scandal, that there were Causes depending before the Adjournment? And many Times to proceed would be great Injustice, either to the Criminal or the Publick, where the Witnesses on either Side are not ready. When the Common Law alloweth the Staying of Proceedings, to say it is done to delay or interrupt Justice, or that thereby the publick Justice of the Kingdom hath received Interruption, is not only highly scandalous, but absolutely untrue; for it is according to the Rules of Law, and the publick Justice, and may be the Promoting of it, as it ought to be intended.

Petitions

Petitions may be rejected by either House of Parliament; and so may Bills, though they have the greatest Semblance of common Benefit; yet this is no Denial of Justice, nor to be scandalized under any such Notion; they may defer the Consideration thereof, or enter upon other Business. And the King may do the like; he may reject the Bills passed by both Houses, or he may advise upon them, which the Law allows to be no Interruption of publick Justice: The King may adjourn, or prorogue the Parliament.

And the King and Parliament may defer Business.

If the Subjects cannot examine into or censure these lawful Actions of their Princes, but must intend them to be upon just Grounds, and for their common Safety; to charge them with the Interrupting of Justice, and of the Means for his own and his Peoples Preservation, and publish this to all his Subjects, is, in Judgment of Law, a false, scandalous and malicious Libel. This Censuring of the King's lawful Prerogation, is of a very dangerous Nature: If the King pass not a Bill, which the City of *London* have a Mind to, this Rejection of such Bill shall in Print be published to the whole Nation as a Denial of Justice: To reprieve an Offender, it shall be a Delay or Interruption of publick Justice; and to pardon a Malefactor, shall be a Denial of the publick Justice of the Kingdom: So that the King shall exercise no just Prerogative, but at their good Pleasure.

What Acts construed a Denial of Justice.

Page 494.

If the City judge of them.

To publish a Libel is in no Case lawful, be the Matter never so true, even though the Party who is libelled be dead; and as to the Degrees of the Crime, in the Case of all common Pleas, the Offender shall be fined. On the Stat. 1 *Eliz.* c. 6. Judgment was given for cutting off an Offender's Right Hand, for libelling the Queen, though in a more private Matter than the Administration of her Regal Office; and by the Statute of 13 *Car.* 2. c. 1. all natural Persons are for the Future disabled, and incapable of any Office or Place of Trust, where convicted of a Libel against the King: But when the Matter is false, and the Libel published

All Libels unlawful.

Libels against private Persons, and against the King.

How punished.

Publish'd to
cause Dis-
affection.

Persons cen-
sured by their
Actions.

Page 493.

Publick Justice
not interrupted
by Adjourn-
ment of Courts,
&c.

the King had done nothing thereby but what was just and good for his People? It must then be some very ill Thing in the Prorogation, that so much surpris'd them, and fill'd them with such Terrors as throughout the Petition they express.

'Tis plain, their panick Fears are charged upon the Prorogation: And to what other Purpose do they publish this severe Sentence on the King's Prorogation, with their dismal Fears, but to affright the King's other Subjects, and beget the like Fears in them? The natural Consequence whereof is to withdraw their Affection.

Mr. Recorder endeavours to evade the Scandal of the Words by proper Answers; that these Words are not spoken of the King, but of the Prorogation, as Consequences of it? Is not this Quibbling? The Prorogation is only the King's Act of proroguing the Parliament; and to charge the Acts of a King, or other subordinate Magistrate, in Execution of his Office, with Injustice, is the same Thing as to charge the Persons themselves. The Acts of inferior Magistrates are not to be examined, censured and adjudged, much less scandalized by those that are under their Magistracy; that would let in Confusion, and overthrow all Government: They may be judged by Superiors, but not by Inferiors.

No Lawyer can truly say, That by the Putting off the Cause, the Prosecution of Justice hath been interrupted: Or will it be any Justification for him for such Scandal, that there were Causes depending before the Adjournment? And many Times to proceed would be great Injustice, either to the Criminal or the Publick, where the Witnesses on either Side are not ready. When the Common Law alloweth the Staying of Proceedings, to say it is done to delay or interrupt Justice, or that thereby the publick Justice of the Kingdom hath received Interruption, is not only highly scandalous, but absolutely untrue; for it is according to the Rules of Law, and the publick Justice, and may be the Promoting of it, as it ought to be intended.

Petitions

Petitions may be rejected by either House of Parliament; and so may Bills, though they have the greatest Semblance of common Benefit; yet this is no Denial of Justice, nor to be scandalized under any such Notion; they may defer the Consideration thereof, or enter upon other Business. And the King may do the like; he may reject the Bills passed by both Houses, or he may advise upon them, which the Law allows to be no Interruption of publick Justice: The King may adjourn, or prorogue the Parliament.

And the King and Parliament may defer Business.

If the Subjects cannot examine into or censure these lawful Actions of their Princes, but must intend them to be upon just Grounds, and for their common Safety; to charge them with the Interrupting of Justice, and of the Means for his own and his Peoples Preservation, and publish this to all his Subjects, is, in Judgment of Law, a false, scandalous and malicious Libel. This Censuring of the King's lawful Prorogation, is of a very dangerous Nature: If the King pass not a Bill, which the City of *London* have a Mind to, this Rejection of such Bill shall in Print be published to the whole Nation as a Denial of Justice: To reprieve an Offender, it shall be a Delay or Interruption of publick Justice; and to pardon a Malefactor, shall be a Denial of the publick Justice of the Kingdom: So that the King shall exercise no just Prerogative, but at their good Pleasure.

What Acts construed a Denial of Justice.

Page 494.

If the City judge of them.

To publish a Libel is in no Case lawful, be the Matter never so true, even though the Party who is libelled be dead; and as to the Degrees of the Crime, in the Case of all common Pleas, the Offender shall be fined. On the Stat. 1 *Eliz.* c. 6. Judgment was given for cutting off an Offender's Right Hand, for libelling the Queen, though in a more private Matter than the Administration of her Regal Office; and by the Statute of 13 *Car.* 2. c. 1. all natural Persons are for the Future disabled, and incapable of any Office or Place of Trust, where convicted of a Libel against the King: But when the Matter is false, and the Libel published

All Libels unlawful.

Libels against private Persons, and against the King.

How punished.

to withdraw his Peoples Affections; and that by the joint Consent of a Corporation, there is no Room to doubt but they have broken their original Trust for good Government, and misus'd their Liberty to Licentiousness.

Offences of the Corporation of London.

I have now nothing more to offer: I have proved that the Corporation of *London* is a great Franchise; and that they stand in the same Level with other Cities and Boroughs, which be forfeited and seised. I have presented to the Court two superlative Offences committed by them, both against their Prince and their Fellow Subjects; their Disease is dangerous and infectious to other Cities, and of the Nature of the King's Evil, incurable without the King's Hands.

Demand of Seizure.

And nothing remains for effecting of the Cure, but the Judgment of the Court for the Seizure of the Franchise of the City of *London*, which I demand for the King.

Mr. Pollexfen's Argument for the City.

Mr. *Pollexfen*: In this Case, when I consider the Greatness and Consequence of it, that it affects the King, the Parliament, the Laws, the very Government under which we have liv'd, this great City of *London*, and all other Corporations and People of *England*, and their Posterities for ever, I cannot but be troubled that I should be the Man to whose Lot it should be to argue it.

Ground of the Argument.

But the King's Council having on their Side only some general Words out of old Records of Forfeitures and Seizures of Liberties, which are of uncertain and doubtful Sense, and not produc'd any one Precedent to maintain the Point in Question, viz. That a Corporation, or Body politick, ever was determined, or dissolved, or taken away for a Forfeiture; no, not in the maddest of Times, even of *Edward* and *Richard II.* So that from hence I may conclude, that I argue in this Case for the old and known Laws, as they have been practis'd thro' all Ages; this is a great Encouragement to me.

Page 495.

The first Thing proper to be spoken to, is the Information it self: And here the Point or Question is, Whether the Information, as brought against

against the Body politick, be sufficient in the Law, upon which a Judgment can be given, or ought to have been brought against particular Persons? Now I conceive it is insufficient as it is, for the very Bringing of the Writ, and Exhibiting the Information against the Corporation, admits the Mayor, Commonalty and Citizens, to be a Body politick, capable to be sued and impleaded; otherwise there is no Defendant or Person in Court against whom the Suit is brought; and it is not enough that the Person sued be a Person by Supposition, but none in Reality.

Information insufficient, not being against particular Persons.

In the Information it is alledged, that the Mayor, Commonalty and Citizens, the Liberty and Franchise of being a Body politick, and to plead and be impleaded, upon the King have usurp'd; and to usurp or do any Act, of Necessity imports a precedent Existence of the Person that doth it, to the Act done: That which is not in *esse*, cannot use or usurp any Franchise; and therefore this Information is inconsistent with it self. Particular Persons may usurp, and take upon themselves that which they have no Right to; because the Persons that do the Act, did before exist and had a Being.

What is not in *esse*, cannot usurp.

That it ought to be against particular Persons, is also drawn from the Judgment that must be given upon this Information; which must have two Things in it, *viz.* To damn the Corporation from being a Corporation for the Future; for being wrongfully usurp'd it cannot be continued; a Fine to the King for usurping it for the Time past: This Judgment ought to be where the Information is against particular Persons, for usurping upon themselves to be a Corporation; but this cannot be against a Body politick, for by the Judgment it is extinguished, and no Fine can be imposed upon that which is not; and the Law is always agreeable to it self, and the Means answerable to the End.

No Judgment can be given against the Body politick.

I do agree, that there are Precedents of *Quo Warranto's* brought against Corporations, in such Manner as this is brought, for usurping to be a

Page 496.

Quo Warranto's brought for usurping Liberties.

Corporation, and claiming divers other Liberties; though if they are of any Authority, they are for me. For they all being for claiming other Liberties, as well as to be a Corporation, and being good and sufficient as to the other Liberties and Privileges, though insufficient for this of claiming to be a Corporation, they must be proceeded upon, if the Attorney pleaseth: But is there any to be found where the Claiming is to be a Body politick, and nothing else; or if other Things question'd, yet only proceeded in as to this Particular, as in this Case?

Some Law
Cases of little
Authority.

The Judgment of *New Malton* in *Yorksire*, *Trin. 6 Jac. 1.* is inconsistent with the Rules of Law or Reason: How can the Corporation be seized into the King's Hands? *Extinguatur & excludatur* are proper; but the Corporation cannot be in the King. And this Judgment passed *sub silentio*; for there is no Mention of it in any Book or Report, nor doth it appear that ever the Question was moved or debated: And tho' Precedents in Matters of Practice, and Process, are of Authority; yet in Point of Law, unless they have been upon Debate, they are of little Authority to prove what the Law is. *4 Rep. 94.*

Page 497.

All the Precedents that are in any printed Books, of Informations brought, to question whether Body politick, or not, are against particular Persons by Name. *Roll. Rep. 2. f. 15.* is express, That if a *Quo Warranto* be brought to dissolve a Corporation, the Writ ought to be against the particular Persons; for the Writ supposeth that it is no Corporation. And Mr. Attorney finding the Precedents to be against him, endeavour'd to maintain the Information as brought not against the Corporation, but against the Citizens or Inhabitants of the City in their natural Capacities; and for that Purpose cited the Case *Co. Ent. 537.* and argued, That a *Quo Warranto* lies against the *Cives* of such a City, or *Burgenses*, or Tenants; but this seems to be a sudden Conceit, and not well consider'd.

In

In Answer to it, and to prove that this Writ is brought against the Defendants as a Corporation, and cannot legally be otherwise taken; If a Mayor and Commonalty plead, That they are seised in Fee, they need not say in Right of their Corporation, for the Name shews them to be a Corporation. 1 Leon. 153. So when a Writ is brought against a Mayor and Commonalty, or Mayor, Commonalty and Citizens, the Law takes Notice of them to be a Corporation, and the Writ against them as such; the Name shews it: But against Inhabitants of a Town or Village, if a Writ be brought by that Name, that cannot be taken to be other than Inhabitants, the Name so shews it. Co. Ent.

Name shews the Defendants a Corporation.

If we should admit, as Mr. Attorney argues, That this Information is not brought against the Corporation, then there can be no Judgment for Want of Defendants appearing in their natural Capacities; for the Corporation, and no particular Persons, are the Defendants before you, or you have none; and you must give it against the Corporation, or no Body. Besides, a Mayor cannot be, but where there is a Corporation; and therefore this Notion is impossible.

The Replication is next to be consider'd: But before I proceed to the Matter, I would speak to the Pleading herein, and in the Surrejoinder; and for the Pleading in it, I think it is as singular and unprecedented as the Matter of it. This Replication is insufficient, and not warranted by any Law or Practice; it contains an Issue, viz. No Corporation Time out of Mind, and a double Plea, alledging two Causes to avoid it for a Forfeiture; altho' the Point in Question be but one, Whether we are lawfully a Corporation, or not; and tho' our Plea is single that we are a Corporation by Prescription.

Page 498.

The Replication insufficient.

It is true, the King hath great Prerogatives in Pleadings; but the King cannot, to the same Matter, both take Issue and plead over at the same Time. If Mr. Attorney may take Issue, and also plead over, I would ask how many Issues and how many

Several Special Pleas not allow'd in Case of the King.

many Pleas he may have? In Favour of Life a Man may plead a Special Plea, and plead likewise Not guilty, but not several Special Pleas; but that there is any such Prerogative for the King's Attorney, in Suits between the King and his Subjects, I can find no Instance or Authority for it: And though it be true, that the King's Prerogative is great, yet it is not boundless, but the Common Law hath admeasured it, that it shall not take away or prejudice the Inheritance of any.

King's Prerogative in Pleadings, not to injure the Subject.

The King hath a Prerogative, that he may waive his Demurrer and take Issue, or waive his Issue and demur upon the Plea: But the King's Attorney should not have both together, as in this Case he hath done. The King shall be bound by one Issue, and not have divers. 9 H. 4. 5. As this Replication is at the same Time *Simul & Semel* to the same Matter, to take Issue that we were not a Corporation, and to plead two Matters of Fact for Forfeiture, it is the first Attempt that ever was of the Kind; and in its Consequence destroys the Right of the Subject, and leaves him only a Colour of Law, but most difficult and chargeable, if not impossible by it to be defended, if Issues and Pleas without Number may be by Mr. Attorney joined and pleaded, and the Subject must Answer.

Page 499.

Consequence and Mischiefs of this Pleading.

This Point, if I mistake not, will deserve Consideration; and perhaps the Mischiefs attending this Way of joining Issue, and Pleading over as many Pleas as the King's Attorney pleaseth, are as great as any other in this Case, and not less to be minded and regarded. But supposing that several Causes of Forfeiture may be assign'd, they must be all Facts done at the same Time, or they confound one the other; for if the first Fact was a Forfeiture, thereby the Corporation was at an End, and the Subsequent could not be the Act of the true Corporation, which was determined by the precedent Forfeiture.

Mr. Attorney's Shifting.

But to avoid this, Mr. Attorney holds, That tho' the Act be a Forfeiture, yet till there be a Judgment the Corporation remains. Then taking
it

It to be so, and that until the Forfeiture appear on Record, it is not determined or vested in the King, but continues: This is quite contradictory to all that you have done; for if this *Quo Warranto*, or Judgment upon it, must determine the Corporation, and notwithstanding such Act the Corporation is in Being; then they have not usurped upon the King; they have the same Power to act as they had; and the same Warrant and Right, only subject to a Judgment against them, that may be hereafter given, till which they are the lawful Corporation they were; and hereby is the Information destroy'd and abated.

This I rest upon as impossible to be avoided: For is it possible that a Corporation can be lawfully and rightfully such, and not lawfully and rightfully such? or can Right and Wrong be the same? As these seem to be Contradictions the most difficult to be impos'd; therefore pray tell us what we are: If you say, we are a Corporation, then we have not unlawfully acted or usurp'd to be one, as you have alledged.

Contradictions and Absurdities.

Supposing the Information and Replication to be good; I conceive the Matter contain'd in the Rejoinder is sufficient to justify or excuse the two Facts alledg'd for Cause of Forfeiture. Mr. Attorney, in his Surrejoinder, offers a Traverse to that which is no where alledged or supposed: It is admitted in our Rejoinder, that the Sums for Tolls were not Time out of Mind, only that the City had Power to assess and ascertain them as often as expedient; and therefore when he traverseth our having the Tolls Time out of Mind, his Traverse is naught.

Page 500, 501.

Rejoinder, the Matter of it sufficient.

A Prescription for a private Lord of a Market to have a Toll uncertain, and as often as necessary to ascertain it, I agree is no good Prescription: But that is not our Case; I do distinguish this Case from that, because here is a Custom confirm'd by Acts of Parliament, with Power vested in the Lord Mayor, Aldermen and Common Council, to regulate Trades and Markets in the City, and the Places and Conveniencies, and consequently

Difference between a Prescription and Custom confirm'd by Statutes.

sequently to regulate the Tolls to be paid by the Market People: And an Ordinance that no Broad-Cloth should be sold in the City, before brought to *Blackwell-Hall* to be search'd, and a Penny for every Cloth to be paid for Hallage, on Pain of forfeiting 6 s. 8 d. a Cloth, though it was objected this was an Imposition upon the King's Subjects, was adjudg'd good. 5 Rep. 69.

Great many
Ordinances, all
to the same
End.

A Multitude of Ordinances have been made for regulating all Manner of Trades, and of Rates and Prices, Buying and Selling within the City; and there is as much Reason to object against them, as this Ordinance. The Payments that are impos'd by this Ordinance, are only on those that are under Shelter, and a reasonable Recompence: And the Custom or Power of the Common Council is not denied; if it had, that must have been tried; nor have they denied the Rates set to be reasonable; so that as to this Matter, we have justified our Making our By-Law, and Taking the Tolls thereby appointed.

Statutes main-
tain'd.

For making Good our Customs, in the Plea there are three Acts of Parliament pleaded; *Magna Charta*, 1 Ed. 3. and 7 R. 2. The King's Council have not denied *Magna Charta* to be a Statute, but have the other Two, because not in Print, or on the Rolls: As to the first Objection, Private Acts of Parliament do not use to be Printed; and suppose there were no Roll to be found, doth this after so long a Time conclude there was none such? And it is true, that almost all the Parliament-Rolls of H. 3. E. 1. E. 2. and till 4 E. 3. are lost. To prove the Act 1 E. 3. we have pleaded it under the Great Seal of the King that made it, and shewn it with our Plea; and if this be not sufficient Evidence, what can be?

Page 502.

But here it may be objected, That this was no Act of Parliament, but only a Grant or Patent in Parliament. In Answer to this; Acts of Parliament observe not any certain Form: There was Variety in Penning them in antient Time, and many were in Nature of Patents or Grants; and the Statute of *Magna Charta* is in Form of a Charter

Variouſly
drawn in an-
tient Times.

Charter or Grant. And for the other Act 7 R. 2. the 4 Inst. 250. 5 Rep. 63. 8 Rep. 162. all say, That the Customs of London are confirm'd by Parliament 7 R. 2.

The constant Course of Pleading the Customs of the City of London, is to plead a Confirmation of them by this Act of Parliament; and as to this Point, there is not any one Book or Opinion, before this Day, in Favour of what is affirm'd, that these are not Acts of Parliament.

Customs
pleaded.

And now, if this By-Law, made by Virtue of the Custom, be not sufficient in Law, *Quid sequitur?* Why then it is void in Law. If a Lessee for Years, or for Life, make a Feoffment, but it is not duly executed for Want of Livery and Seisin, by which it is void in Law, will this make a Forfeiture of the Estate of the Lessee? A void Act shall not destroy or forfeit a precedent Estate. *Dyer* 377. And if this Ordinance be not warrantable, but void, it can make no Forfeiture.

Page 503.

By-Laws against Law,
void.

Then suppose we exacted Sums of Money by this Ordinance, which we had no Right to; if an Officer, by Colour of his Office, receive more than is his Due, it is Extortion, and so punishable; and if one that is no Officer take Money that is not his Due, the Parties injured have their Remedy by Action; but this is no Crime for which any Forfeiture is incurred by the Persons that take or receive the Money. But you took upon you, say they, Authority to tax the King's People; this is but the same Thing put into greater Words: The Making a By-Law or Ordinance, whereby more is ordered to be paid than ought, or Money appointed to be paid where none is due, is all the Fact done; and if that make no Forfeiture of the Corporation, it is not the stately Words of taking upon you, or Usurping a Power to tax the People will do it.

Officers punishable, but
not forfeit the
Corporation.

As to the other Cause alledg'd for Forfeiture, the Petition; the Defendants set forth, That divers of the Loyal Citizens, being much affrighted and troubled with the Apprehension of Danger from

Petition, the
Contents of it,
and why made.

Page 504.

from the Popish Plot or Conspiracy discover'd against the King and Government, did exhibit their Petition to the then Lord Mayor, Aldermen, and Common Council, expressing their Fears, and Expectations from the King and Parliament, and pray that the Common Council would Petition for the Sitting of the Parliament: And thereupon the Mayor and Aldermen, and Common Council, from their Hearts truly Loyal to the King, and for the Satisfaction of the Citizens Petitioning, and to the Intent to preserve the King and his Government, did order a Petition to the King, expressing that they were extremely surprized at the Prorogation of the Parliament, whereby the Prosecution of Publick Justice, and making Provisions necessary, received an Interruption.

Words not held ill, if may be taken in a good Sense.

There are no Words but what are subject to various Constructions; but I think Words written or spoken, ought not to be taken in an ill Sense, if they may reasonably be taken in a better, and therefore the Words must stand as they are penn'd. It is not said, that the King did interrupt; but that the Interruption receiv'd, is a Consequence of the Prorogation; and there is a great Difference between the one Sort of Expression and the other: For an ill Consequence may attend a most commendable and necessary Act; but no Consequences can make an ill Act good.

Lawful to print and publish what is lawful.

It may be perhaps when this Petition was made, that there was too much Heat in the Minds of Men; but it is Time for all Sorts to grow cool, we are or should be considering Men. This Petition was ordered *Nemine contradicente*; and among such a Number as the Common Council, there must be Men of Variety of Tempers and Dispositions: But for the greatest Number of the Aldermen and Common Council, think of them; can we imagine that they had the least ill Thought or Meaning towards the King? And as for the Printing it, that stands upon the same Reasons or Grounds: If there be nothing unlawful in it, then

then the Printing and Publishing of that which contains nothing unlawful, cannot be ill or unlawful; and Printing is good or bad, as the Matter printed is so.

The next Thing considerable is, Whether by the Act of the Common Council the Being of the Corporation shall be forfeited? There is no Rule nor Measure of the Power of Common Councils; in some Corporations they have greater Authority, in some less; but in all they are subservient and constituted for particular Ends: And in this Case the Court can take Notice of the Common Council no otherwise than as upon the Record they appear. If it is said, That the Court shall take Notice of the Common Council of *London*, to have the Management of the Business of the Corporation, this cannot be: Suppose our Question had been concerning any other Corporation, could the Court judicially have taken Notice of the Power of their Common Council, without having it specially set forth, that they might judge or determine of it?

Power of Common Councils different, in most Places.

Page 505.

It is no where alledged in our Pleading, that the Common Council have Power to make By-Laws for the Ordering and Governing the City, or that they can bind all the Corporation in the Disposition of their Lands, or have the Common Seal: Therefore, as the King's Counsel have no where pleaded what they are, or what Power they have, as they should have done, when they argue from these Powers their Power of Forfeiting, they are quite out of the Record; so as to this Particular, here is nothing before the Court, to shew how or which Way the Body Politick is concern'd in these Acts of the Common Council.

And ought to be shewn, not intended by the Court.

If the Common Council do any Act not within their Commission, as if a Grant be made by them in their Name, under Seal, or in the Name of the Corporation, but not under the Common Seal; is not all this void? This I instance, to shew that their Charter is their Power and Warrant to act by: And did ever any Man hear of, or see a Charter giving the Common Council Power to surrender

Page 506.

Charter, their Power and Warrant.

surrender the Corporation? Shew me their Authority, or else I may conclude they cannot surrender: And if the Common Council of *London* be by Custom, then their Power is by Custom; and have the Common Council used and accustomed to surrender the Charter? No Body can say it.

Gives no
Power to sur-
render.

'Tis against all Sense to suppose, that that which is deputed for the well ordering of the Corporation, should have Power to surrender it; and that any Thing that hath but a ministerial Power, for the Service of the Principal, should have Authority to dispose of, and destroy their Principal, is no Consequence in Law or Reason. Then as the Counsel of the other Side say, that because they may surrender, they may forfeit: By the same Reason I may argue, if they cannot surrender or dispose of the Corporation, they cannot forfeit.

Acts of the
Corporation,
how made.

The Acts of the Corporation, are in the Names of the Corporation, and under the Common Seal; they can make no Writing, or do any Act, but under their Common Seal: How then can this Ordinance be their Act? There is nothing in it that imports it should be theirs; it is not done by them, nor in their Names, but by the Common Council, and in the Name of the Common Council. Indeed the Corporation Act allows the Common Council's ordering Petitions: But where is it to be found, that they could forfeit or dissolve the Corporation?

Page 507.

As for what is alledg'd, That if Corporations be not forfeitable for their Miscarriages, they will attempt and do extravagant Things, raise Sedition or Rebellion, and there will be no adequate Punishment for them; to this I answer, That there is no illegal Act they can attempt or commit, but they are under the same Correction of the Law as any other the King's Subjects not incorporate are.

Corporations
punishable in
private Capa-
cities.

Though it is true, That the Corporation it self is only a Body Politick, an invifible Body, yet the Members of it are visible: And if they, as Members of that Corporation, do an unlawful Act,

Act, they are punishable for it in their own private Capacities. If any Offence be committed, it must be done by particular Members; and they must Answer for it: Nor is this any new Opinion; 21 *Edw.* 4. 14. is exprefs, That a Mayor and Commonalty, or other Body Politick, cannot commit Treason, altho' all the Commonalty do commit it; but every one of them is a Traitor in his own Person.

It is a general Rule in Law, That if a Man misuse or abuse a particular Franchise, he shall forfeit that Franchise; but he shall not forfeit any other, except it be depending upon and incident to it. The Cases cited prove nothing farther; they do not make out, That if a Corporation have Fairs, Markets, Gaols or Leets, and misuse any of them, that the Body Politick or Being of the Corporation shall be forfeited. And can it be said, That the City of *London* is either dependent or incident to the Markets; or on the contrary, that the Markets are so dependent upon the Corporation, that they cannot be one without the other? If this cannot be, how can the Taking the Tolls, admitting they were a Forfeiture of the Market, forfeit the Corporation?

Some Franchises forfeitable, and a Body Politick not.

Page 508.

The Arguments drawn from general Rules are the most fallible; and that this of the King's Counsel is such, I shall plainly shew in distinguishing the different Nature of Franchises. A Franchise is a large Word, and of the like Sense of Liberty or Privilege; and therefore in *Quo Warranto's*, Franchises, Liberties and Privileges, seem to be of the same Meaning. Now a Body Politick is only a Capacity framed and created in a Multitude, to be and act as one Person; they are incorporate and made one Body, with Power of Acting, Taking, Holding and Granting; this is their Franchise, admit it to be so, but differs from others. Franchises and Liberties of all other Natures, are Inheritances grantable and conveyable from one to another: This of a Corporation is not grantable or transferable.

Different Sorts of Franchises.

A Corporation
not generally
called a Franchise.

Other Franchises appear to be distinct and separate Estates; and if any one be forfeit, as it may for Misuser, the Rest are not, unless Incidents and Appurtenances: But if the Being of a Corporation be forfeited, all their Estates, Lands, Goods and Chattels, are gone at once. So that though you call this a Liberty or Franchise, it is nothing like in its Nature to those Things that are generally known by the Name of Franchises; and that this was never taken in Law to be such a Franchise, Liberty or Privilege, as was comprehended under the general Meaning of Franchise or Liberty, appears by the Stat. *Glouc. 6 Ed. 1.* and other Authorities.

Page 509.

Next, no Instance can be given of any Seizure of a Corporation or Body Politick, for any Forfeiture: Seizing of their Liberties, or putting Officers upon them, is quite another Thing. And what is generally said in our Law-Books, that Misuser of a Franchise forfeits it, extends not to the Being of a Body Politick, but is applicable only to particular Franchises of other Natures.

Seizures of Offices taken for Liberties.

Indeed in the Times of *Hen. 3. Ed. 1. Ed. 2.* and *Rich. 2.* there were frequent Seizures of the Office of Mayor; and the Kings did put in a *Custos* in the Place of Mayor, or made a Mayor, and these are called Seizures of Liberties. But as all these Instances were above 300 Years ago, except one of *16 R. 2.* which is above 290. and no such Thing ever was done since; what Weight can be given to such Proceedings?

Page 510.

Old Records of bad Times, no Precedents for the good.

The Writs out of the old Records for Levying of the Ship-Money, had as good Records to warrant them, and more plain to the Purpose than these: And the Precedents of *Edward* the Second and *Richard* the Second, ought, as I conceive, to be no Example; no Law-Book or Report hath ever given so much Credit to their Proceedings, as to take any Notice of them; and to make Use of Records, the Grounds or Reasons whereof cannot now be known, to subvert any Government establish'd, is neither advisable nor commendable.

The

The Statutes of old Times, shew not only the Disorders, but that the Liberties were greatly infringed, or there would not have been Statutes to confirm them; and from the Reign of R. 2. to this Day, we do not find any Seizure of Liberties or Franchises: That which in those Days of Violence was done, shew them the worst of Times, but are no Precedents for the Best. Page 511.

Mr. Attorney was pleased to take it, that Forfeiting and Seizing of Liberties were all one: I shall not dispute that; but whether in any of the Records, the Corporation or Body Politick were by these Words taken to be forfeited? He was so careful to avoid the Consequences of a Forfeiture of a Corporation, which are so great and destructive, that he would not by a Judgment in a *Quo Warranto* have the Corporation determined, but that there should be some Seizure into the King's Hands; though what that is, or how to be understood, I cannot imagine. Shall it, after the Forfeiture, remain in the same Persons that it was in, and subsist, live, and act as before? or shall it be in *Limbo patrum*, or in *Nubibus*? Forfeiting and seizing Liberties very different.

That which is the true Sense of the Words, *forfeiting and seizing Liberties* was, if the Abuse were of a particular Franchise, as of Courts, Prisons, Markets, or the like, the King had them forfeited to him: And where the Abuse was by a Corporation, they acted by their active Parts, by their Mayors, Bailiffs, Sheriffs, &c. And the King seized these Offices, turn'd the Corporation Officers out, and appointed others in their Steads. This was the usual Course; but for seizing Corporations as forfeit, there hath been no such Thing in any Time; but the contrary is most evident. True Meaning of the Words.

For the Corporations, notwithstanding the supposed Forfeitures or Seizures, remained still in Being; and the Cities of *London*, *Bristol*, *Gloucester*, *Cambridge*, and also the *Cinque Ports*, that have been mentioned to be seized, have ever since continually, in all Pleadings, made themselves a Title by Prescription; and the Acts of Parliament Page 512.

Corporations still continu'd by Prescription.

that follow those Seizures made by *H. 4. H. 5.* and *H. 6.* all confirm their Privileges, without a Word of granting new Privileges, which shews plainly that the Corporations were not thought to be determined or dissolved: And by Forfeiture, must be meant the Losing their Corporation; no other Sense can be, or ever was of Forfeiture.

So never forfeited.

Page 513.

The Enjoyment or Possession for the Space of Three hundred Years, is Evidence sufficient of their remaining and being Bodies Politick by Prescription, which they could not be, if they were forfeited. And it appears by all the Precedents of Seizures, that it was never imagin'd the Corporations were forfeited; which would have been very unreasonable; for thereby all their Lands and Goods, and all the Debts owing to or by them, would all be lost: All they did was, they put in Officers to preserve the Corporations.

If they had been either forfeited or determined, could the Writs of Restitution have set them up again? In such Case, the Old could not be restored but by Act of Parliament: They might have had new Charters, and have been made new Corporations, but could never have been restored, if once forfeited, as now pretended.

If every Abuse be a Forfeiture.

Page 514.

And if Abusing the Franchise or Liberty of being a Corporation be a Forfeiture of it; then every Act that a Corporation doth, that is not justifiable by Law, is an Abuser; and as a Body Politick is but a Person created in Resemblance of a natural Person, it must of Necessity be subject to Errors sometimes in their Actions, as natural Persons are: But can it be reasonable or just in Law, that every Error, Misuser or Abuser, must be a Forfeiture? It would be very penal, if the greatest Offence, and the least illegal Act or Misdemeanor, were to have the same Measure of Punishment.

The Mischiefs and Inconveniencies to all Corporations.

Arguments from Mischiefs and Inconveniencies, are forcible in Law; and my Lord Coke, in his 1st Institute says, Men must be desperate that despise them. The Mischiefs that must attend this
Doctrin

Doctrine or Law of forfeiting Corporations, are demonstrable; for by this, at one stroke, all the Corporations in *England* will be made forfeit, because there is not any Corporation that hath not offended or transgress'd: And if they have done any Act as makes a Forfeiture, all that they have done since is without Right; and all they think they have a Title to, as a Corporation, they are mistaken in, they have none: Perhaps if a Parliament should be called, those forfeited Corporations can lawfully send no Burgeſſes.

It is considerable what Effects this may have in Parliament, and our Laws and Posterity not being a little concern'd therein: But if it be only to the City of *London*, the particular ill Consequences and Miſchiefs will be these: 1. All their Lands will be gone, and revert to the Donors. 2. All the Markets, Tolls and Duties, that they claim by Prescription, whereby the Government and Honour of the City are maintain'd. 3. All Debts owing to the City, and all their Personal Estate will be gone. 4. All the customary Privileges that the Freemen of the City, their Wives, and Children claim. 5. All the Acts of Parliament that give particular Powers and Authorities to the Lord Mayor and Aldermen, or Common Council. 6. And what will become of all the Charities in the City? We have ſeen the City burnt; but we never yet ſaw it diſſolv'd, nor are the Consequences measurable.

If the King, on the Diſſolution of this, ſhould grant another Charter, it will be impoſſible any of these Things can be preſerv'd: For if a Body Politick, or Corporation, be once diſſolv'd, tho' a new one be found of the ſame Name, that can have no Succeſſion to the Old: Therefore it is that in the Dean and Chapter of *Norwich's* Caſe, the Preſervation of the old Corporation is inſiſted on. 1 *Inſt.* 102.

We are now in a *Quo Warranto*, which, as Mr. Attorney truly ſaith, is in the Nature of a Writ of Right, the higheſt Writ that is in the Law;

Particular bad Consequences to the City of *London*.

Page 515.

All irretrievable on a Diſſolution.

Judgment on a *Quo Warranto* to be final, and not of Seizure.

and the Judgment therein, and in this *Quo Warranto* must be conclusive to all Parties: If given against the Defendants, it will conclude them for ever; and if against the King, he shall never hereafter bring it in Question for any Cause precedent. 9 *Rep.* 28. *Co. Ent.* 527. The Court cannot alter the Judgment; and to talk of a Judgment of Seizure, what is the Meaning of it? I hope you will not be induc'd by singular unwarrantable Things, that a Judgment should be given that shall neither dissolve the Corporation, nor continue it; that shall be for neither Plaintiff or Defendant, and leave the Corporation not alive nor dead, but *in Transitu*.

A Corporation
in its Nature
not forfeitable.

The Nature of a Corporation, as our Books do describe it, shews it not forfeitable: This I take to be plain in the Case of *Sutton's Hospital*, and the other Books there cited. 10 *Rep.* 92. 21 *Ed.* 4. 72. Their Ends or Creations are for the Publick Good, and the Government and Preservation of the City or Town incorporate; and if there be any Thing done to any other Intent, 'tis not the Act of the Corporation, but of the particular Members for which they are answerable. By Seizing the Liberties of a Corporation, is meant the Taking from them their Officers, and putting in others upon them for a Time: But a Forfeiting, Dissolving, and Determining the Body Politick, never was yet done or known, nor, as reasonable to believe, ever entered into any Man's Thoughts 'till now.

Page 516.

Particulars of
the Argument
summ'd up.

Upon the whole Matter, If this Information brought against the Body Politick for Usurping to be a Corporation, ought to have been brought against the particular Persons; or if it be repugnant or contradictory; if forfeiting a Franchise or Liberty cannot be determined 'till the Forfeiture appear on Record; if Mr. Attorney's Replication, taking Issue upon our Prescription to be a Corporation, and going over and Pleading several Causes of Forfeitures, cannot by Law be maintain'd; if the Judgments and Authorities, that have

Page 517.

have been cited by the King's Counsel for Seizures, do plainly shew that Seizures and Forfeitures are very different in their Natures; that the Corporations all continued notwithstanding the Seizures, and they remain Corporations by Prescription to this Day: If where Corporations have by Abuses or Miscarriages forfeited particular Franchises, they do not forfeit their Corporations; if the Corporation here hath done nothing, but that the Mayor, Aldermen and Common Council, are only their Ministers; and if they have done that which they had no Authority to do, they must Answer for it in their own Persons; and if these Acts were the Acts of the Corporation, if they have shewn a legal Right by their Custom and Title, to make the By-Laws as pleaded; and that there was reasonable Grounds for their Petition?

By enumerating the several Questions.

If all these Particulars summ'd up, or any of them, be for me, then Mr. Attorney can have no Judgment against the City; but Judgment must be for them, which I humbly pray.

In *Trinity-Term*, 35 *Car.* 2. Mr. Justice Jones pronounced the Judgment of the Court, (the Chief Justice *Saunders* dying on the Day it was given) and Justice *Raymond* and *Withens* affirm'd, that the Chief Justice was of the same Opinion with them, and they all agreed, 1. That a Corporation aggregate might be seized. 2. That Exacting Money by the By-Law, was Extortion, and a Forfeiture of the Franchise of being a Corporation. 3. That the Petition was scandalous and libellous, and the Making and Publishing it a Forfeiture. 4. That the Act of the Common Council was the Act of the Corporation. 5. That the Matter in the Record did not excuse or avoid the Forfeitures. 6. That the Information was well founded.

The Opinion of the Judges.

And accordingly adjudg'd, That the Franchise should be seized, but the Judgment not entered 'till the King's Pleasure was known: And after Entry made by Mr. Attorney, That as to the

Judgment to seize the Franchise into the King's Hands.

Issue join'd to be tried by the Country; and as to the Claiming to have and make Sheriffs, and Mayor and Aldermen to be Justices of Peace, &c. *quod ipse pro Domino Rege non vult prosequi.*

Page 518.

Judgment was entered, That the Franchise of the City of *London* should be seized into the King's Hands, being forfeited for the Causes aforesaid, and that the Mayor, Commonalty and Citizens *capiantur pro Fine pro Usurpatione Libertat' Privileg' & Franchises. prædict'.*

Charter restored by Jac 2.

The City was thus deprived of its Charter, 'till the Year 1688, when King *James II.* terrified at the News of the Prince of *Orange's* Invasion, thought fit to restore it, and sent it back by Lord Chancellor *Jefferies*; upon which, Sir *Geo. Treby* the Recorder, and the Rest of the Magistrates and Officers, were restored to their Places, according to the antient Constitution.

NOTE. *As the Arguments of the Counsel in this great Cause are of a very uncommon Length, I have inserted the Substance of them in the Form they were delivered, and not by Way of Recital, the Method generally followed in the other Trials and Proceedings; which was absolutely necessary to comprise the Whole, so as to be fully and clearly intelligible to the Reader.*

POSTSCRIPT.

THE Question concerning the Surrender of Corporations or Bodies Politick, not being directly in the Case, but in the Arguments on both Sides insisted on, it may not be unnecessary to state that Point, and collect what hath been in the Debates or Arguments alledged on either Side, that the easier View and Judgment may be made of it.

By

By Surrender in this Question is by both Sides meant and intended, some Deed or Instrument in Writing, whereby a Body Corporate or Politick can surrender and dissolve it self.

It is agreed that a Body Politick may be dissolved, either by the Death of the Persons incorporate, or their Refuser to act, nominate, or elect Officers or Ministers, so as there remain not sufficient, authorized or enabled by their Charter or Constitution, to preserve their Being: This is admitted to be a Cesser, or Dissolution of the Corporation, and such a Sort of yielding up, or Surrender, is admitted possible.

But whether by any Deed or Instrument in Writing it can be done, that is the Question intended.

For the Surrender, it hath been alledged,

1. That the Being of a Body Politick is a Liberty, Privilege, and Franchise, that had its Commencement by the King's Charter, or by Prescription, which supposes a Charter; and if it have its Beginning and Creation by Charter, which is the King's Deed that grants it, by Deed again it may be regranted and surrendered.

And 'tis a Maxim in Law,

Unumquodque dissolvi potest eod' modo quo ligatur.

And Instances in Fairs, Markets, Leets, and such like Franchises, granted by Charter, which, say they, may be surrendered by Deed, or Regrant.

2. That it is necessary that it should be dissolveable by Surrender; perhaps a Town may come to decay, and not be able to defray the Charge that the Support and Maintainance of the Corporation may require; for every one sees that Ornaments and Officers must be, and these cannot be bought, or maintained, without Estates; and poor Men are not able, without Ruin to their Families, to bear the Magistracies and Offices; and therefore necessary there should be a Power in them to surrender.

3. That

3. That the Books and Cases in Law do prove, That a Corporation, or Body Politick, may surrender itself, and thereby be dissolved.

Dy. 273. There the Case is thus stated:

The Deanry of the Cathedral Church of *Wells* was dissolved by the Surrender of *Fitz-Williams*, *tempore H. 8.* And the Prebend of *Currey*, in the same Church, was also surrendered by *Goodman*, Prebendary there, 1 *E. 6.* And in this Year the Dissolution of the Deanry was confirmed, and the Deanry extinct by Act of Parliament, and a new Dean erected and created, to which new Deanry the Lands and Possessions of the old were annex'd, amongst other Possessions, and the Nomination of the new Dean and Successors, given by that Act to the King, and that he should have the same Power in *Choro & Capitulo*, as the old Dean had, saving to all Strangers, other than the Bishop of *Bath* and *Wells*, the old Dean, and the old Prebendary, and their Successors.

In this Case 'tis admitted, and taken for granted, that the Deanry, and also the Prebend were surrendered.

Dy. 282. There the Archbishop of *Dublin* had two Chapters, *viz.* the Dean and Chapter of *St. Patrick*, and the Dean and Chapter of *Christ-Church*, and both these used to confirm the Bishop's Leases. The Dean and Chapter of *St. Patrick*, by Deed under their common Seal, gave and surrendered all their Church, Houses, Lands, and Possessions, to the King, without license or consent of their Bishop, being their Ordinary, and Patron of the most Part of the Prebends.

After this Surrender their Church was used as the Common Hall, for the four Courts in the Term there; and a Lease is made by the Archbishop, confirmed by the Dean and Chapter of *Christ-Church* only, and whether the Successor of the Archbishop were bound by this Lease, was the Question.

The Judges in *Ireland* were divided in Opinion, and thereupon the Case sent over for the Opinion of

of the Judges here; and the Opinions and Resolutions of five Justices, viz. Catlyn, Dyer, Saunders, Welsh, and Carus, certified to the Lord Deputy of Ireland, under their Hands, were, *quod non fuit aliud Capitulum in esse tempore confirmationis Dimission' pred' nisi Christ-Church tantum, quia Corporatio & Capitulum Sancti Patrick fuit per donum & sursum reddition' Decani & Capituli pred' legitime dissolutum absque consensu Archiepiscopi.*

Jones 168. The Opinion of Justice Jones there, That a Corporation may be dissolved by an Act proper, viz. by Resignation.

On the other Side, it hath been answered,

1. Admitting it to be true, that to be a Body Politick, is a Liberty, Privilege, and Franchise, created by Charter, which is the King's Deed;

Yet it doth not follow that it may be surrendered by Deed.

For the Charters that incorporate the Citizens, or Inhabitants of such a City, Town, or Place, and make them a Body capable of taking and having Lands, Goods, or Chattels, to sue and to be sued, and to have a Common Seal, and to act according to the Powers, Ends, and Purposes in their Charters contained, only give them a Capacity for those Ends.

The Liberty, Privilege, and Franchise that they have goes no farther.

They cannot transfer this Privilege, or Franchise, to any other Persons.

These are only personal Franchises or Capacities, fixed in the Persons in whom they are granted.

Like to Patents of Denization granted to Aliens, whereby a Capacity is granted to have, hold, and act, as a natural-born Subject.

Grants of Enfranchising a Villain.

These are Grants that cannot be surrendered.

These are Franchises and Capacities like this.

These are Exceptions to the General Rule,

Unumquodque dissolvitur eodem modo, &c.

So also of Fairs, Markets, Courts, &c. They are created by Charter, they may be granted over,

over, or granted to the King; but if they be re-granted to the King, they are not extinct, but remain in the King.

Abbot of *Strata Marcella's Case*, *Rep.* 9. 25. *b.* shews the Difference thus:

When the King grants Franchises that were in the Crown before the Grant, as *Bona Felonum*, Deodands, Wreck, &c. and these come again to the Crown, they are merged in the Crown, and the King is seised of them *jure Coronæ*.

But when a Privilege, Liberty, Franchise or Jurisdiction, was at first erected or ordained by the King, there, by the Coming of it again to the Crown, they are not extinct, and instanceth in Fairs, Markets, Hundreds, Leets, & *similia*.

They are not dissolv'd or gone, for thereby Subjects would be prejudiced: For if the Court should be so granted, and thereby dissolved, the Subjects Judgments and Suits in those Courts would all be lost.

These are other Exceptions to that general Rule,

Unumquodq; &c.

2. That the Reason given for the Surrenders of Corporations from the Poverty that may happen for the Conveniency of some Corporation is answerable; for that doth not very frequently happen: But when it doth happen, if they are weary of it, they may let it alone, or not act or choose Officers; it will cease of it self, need not be at the Charge or Trouble of a Surrender.

But on the other Side, the Inconveniences are very great, and are some of them before specified.

The Establishment of the Church is all in Corporations, Bishops, Deans, Chapters, Prebends, Parsons, Vicars; if these be surrenderable, as by the Cases cited, without Consent of Bishops; (a Prebend is, as to his Being, but as a Parson, or a Vicar). The Universities, Colleges, Hospitals, all the Cities, considerable Towns, Trades and Mysteries, are Corporations; if these be surrenderable, it affects our old Government.

3. As

3. As for the Books and Authorities, *Dy.* 273. the Dissolution of the Corporation thereby surrendered, is only mention'd in putting the Case, it is not debated, nor was it material in the Case: For the Act of Parliament there settled the new Dean and Chapter, and the Prebendary, and the Matter of the Case ariseth upon the Deprivation of Dean *Goodman*, and the Appeal and Reversal of that Sentence; there is not as much as any Opinion in the Case concerning the Dissolution or Surrender, whether good or bad.

But what may reasonably be inferr'd from that Case is, That the Surrender and Dissolution thereby was not good in Law; for if it had, what needed the having an Act of Parliament to secure against the old Dean and Prebendary; which appears in the Case was had. And,

Co. Rep. 3. 75. *b.* in the Case of the Dean and Chapter of *Norwich*, This Case of *Dyer* is cited, and there expressly said, that that Surrender was not thought good, till confirm'd by Act of Parliament.

And as for the other Case, *Dyer* 282. of the Surrender of the Dean and Chapter of *St. Patrick*;

The Opinion of the Judges there given, is by all the Judges, 3 *Car.* 1. in the Case of *Heyward* and *Fulcher*, in *Jones*, 168. denied to be Law, and said to be a private Resolution.

So that these two Cases in *Dyer*, having been by those later Authorities denied, remain no Authorities. And as for the other Authority, *viz.* The Opinion of Justice *Jones* 168. that a Corporation may be dissolv'd by a proper Act, *viz.* by Resignation.

That is true; taken in the Sense he speaks it, it is spoken of a Dean and Chapter resigning to the Ordinary, *viz.* The Dean resigning his Place of Dean, and the Prebendaries of the Chapter, resigning their Prebends to the Ordinary; whereby their Churches and Prebends became void, and to be supplied by the respective Patron, collating or presenting, as in Cases of Resignation, by any Parson or Vicar to his Ordinary.

But

But this is nothing of a Surrender of the Body Politick to the King, and thereby dissolving the Corporation, and destroying all Supply, by new Presentments or Collations.

And this appears by the very Words of Justice *Jones* there; for when he saith they may be dissolv'd by a proper Act, *viz.* by Resignation; the next Words are, or by Death of the whole Corporation; and the King being Patron, 'tis in his Election whether he will collate *de novo*, or not; and till he collates, the Corporation is in Suspence; but if the Bishop be Patron, then the Bishop, upon the Resignation, hath Power to collate, and thereby to continue the Corporation: So that it is very plain, that the Resignation he speaks of, is not meant of any Surrender to the King, or any Thing that determines the Corporation, except the Patron will not collate, and thereby suffer the Corporation to cease.

But of the contrary, that a Corporation cannot be dissolv'd by any Surrender.

The Suppression and Dissolution of the Abbies, Priories, and Monasteries, by *H. 8.* was no Dissolution of their Bodies Politick.

Br. Extinguishment, 75.

Br. Corporation, 78.

Davies, Rep. 1.

Moore's Rep. 282. Though their Houses and all their Possessions were gone, and the Persons either discharged of their Orders, or sent into other Houses; yet resolved, that the Corporations remain'd. And it can scarce be imagin'd, but in some of those Cases it would have been practised, or at least something said about Surrendring their Body Politick, if it had been then thought surrenderable.

But the Cases of the Dean and Chapter of *Norwich*, *Rep. 3. 41 Eliz.* before cited.

And the Case of *Heyward* and *Fulcher* before-mention'd in *3 Car. 1.*

Jones, 168.

Palm. Rep. 500, 501.

Andersf. 2. 120.

Have been cited as Judgments against Surrenders by all the Judges of the King's Bench.

The Case was, That the Dean and Chapter of *Norwich*, 3 *Junii* 1 *E. 6.* surrendered to the King their Cathedral Church, and all their Manors, Lands, Tenements, Hereditaments, Franchises and Liberties, Spiritual and Temporal, by whatsoever Names they are known, or which they have, or ought to have, in the Right of their Church.

And by the Case 41 *Eliz. Co. Rep.* 3. 74.

And the Opinion of all the Judges of the King's Bench.

3 *Car. 1.* adjudged that this was no Surrender of the Corporation.

Obj. That the Words of the Surrender do not shew any Intent to surrender the Corporation, but only the Possessions.

Resp. The being of a Corporation, is a Franchise or Liberty.

And there is an expresse Surrender of all Franchises and Liberties, Spiritual and Temporal, by what Name soever known, which they have in the Right of their Church. Page 520.

And this was a Spiritual Franchise, which they had in Right of their Church.

Next, This Surrender was made with Intent to dissolve the Corporation, and to have a new one erected; this appears by the new Charter of Erection, made in *November* following; which recites the Surrender made to that Intent.

It is not any where in the many Arguments of that Case, alledged, that there wanted Words in the Surrender to do it, which would have been, if that had been the Ground of their Judgment.

In the Case cited out of *Dyer* 282. there the Words of the Surrender were, that they surrendered their Church, Houses, Lands, and Possessions, which are not half so large and ample Words as in this Surrender are contain'd; and the other Side cite that as an Authority to prove a Corporation surrender'd, and admit the Words there

there sufficient, and deny them to be sufficient here, tho' much more large, exprefs, and general.

The Arguing there in *Palmer* 501. that it is against the Nature and Constitution of Corporations, that by the Words put in their Charters, by their very Constitution are to have perpetual Succession, *perpetuis temporibus duratur*, and which by their Oaths they are sworn to preserve, that they should be *Felo de se*.

And the exprefs Words of the Judges reported in these Books, shew their Opinion, that the Corporation could not be surrendered.

Jones, 168. *Dodderidge* Justice, there saith, that the Dean and Chapter cannot surrender their Corporation.

Palm. 501. *Whitlock* Just. there saith, For that the Dean and Chapter are Counsel to the Bishop instituted to that Purpose, they cannot dissolve themselves; for the Politick Corporation is the Soul to the Body, that cannot be granted or sever'd; though the King can create a Corporation, he cannot dissolve it. And *Jones* Just. there 502. saith, That the Dean and Chapter were Counsel to the Bishop, and cannot destroy themselves; if they could, great Inconvenience thereby will ensue to the Church.

These Proceedings should have been inserted according to the Order of Time, after the Trial of Colonel Sidney.

Bishop *Burnet*, in his History of his own Times, *Page* 532, &c. gives the following Account of this Proceeding, viz. 'The Court finding
' that the City of *London* could not be wrought
' on to surrender their Charter, resolved to have it
' condemned by a Judgment in the King's Bench.
' *Jones* had dy'd in *May*; so now *Pollexfen* and
' *Treby* were chiefly relied on by the City, in this
' Matter. *Sawyer* was the Attorney General, a
' dull hot Man, and forward to serve all the De-
' signs of the Court. He undertook, by the Ad-
' vice of *Saunders*, a learned but a very immoral
' Man, to overthrow the Charter.

‘ The

The Argument
for and against
the Charter of
London.

The two Points, upon which they rested the Cause were, that the Common Council had petitioned the King upon a Prorogation of Parliament, that it might meet on the Day to which it was prorogued, and had taxed the Prorogation, as that which occasioned a Delay of Justice: This was construed to be the Raising Sedition, and the Possessing the People with an ill Opinion of the King and his Government. The other Point was, That the City had imposed new Taxes on their Wharfs and Markets, which was an Invasion of the Liberty of the Subject, and contrary to Law. It was said, that all that the Crown gave was forfeitable back to the Crown again, upon a Maleversation of the Body; and that as the Common Council was the Body of the City, chosen by all the Citizens, so they were all involved in what the Common Council did; and they inferred, that since they had both scandalized the King's Government, and oppressed their Fellow Subjects, they had thereupon forfeited their Liberties: Many Precedents were brought of the Seizing on the Liberties of Towns and other Corporations, and of extinguishing them.

The Arguments against this were made by Treby, then the Recorder of London, and Pollexfen, who argued about three Hours a-piece. They laid it down for a Foundation, that trading Corporations were immortal Bodies for the Breeding a Succession of trading Men, and for perpetuating a Fund of publick Chambers, for the Estates of Orphans and Trusts, and for all pious Endowments: That Crimes committed by Persons entrusted in the Government of them, were personal Things, which were only chargeable on those who committed them; but could not affect the whole Body. The Treason of a Bishop, or a Clerk, only forfeited his Title, but did not dissolve the Bishoprick or Benefice: So the Magistrates only were to be punished for their own Crimes. An entailed Estate, when a Tenant for Life was attainted, was not for-

‘ felted to the King, but went to the next in
 ‘ Remainder upon his Death.

‘ The Government of a City, which was a
 ‘ temporary Administration, vested no Property
 ‘ in the Magistrates; and therefore they had no-
 ‘ thing to forfeit, but what belonged to them-
 ‘ selves. There were also exprefs Acts of Parlia-
 ‘ ment made in Favour of the City, that it should
 ‘ not be punished for the Misdemeanors of those
 ‘ who bore Office in it: They answered the great
 ‘ Objection that was brought from the Forfeitures
 ‘ of some Abbies, on the Attainder of their Ab-
 ‘ bots, in King *Henry VIII.*’s Time, that there
 ‘ were peculiar Laws made at that Time, upon
 ‘ which those Forfeitures were grounded, which
 ‘ had been repealed since that Time: All those
 ‘ Forfeitures were confirmed in Parliament, and
 ‘ that purged all Defects. The Common Council
 ‘ was a selected Body, chosen for particular Ends;
 ‘ and if they went beyond these, they were lia-
 ‘ ble to be punished for it: If the Petition they
 ‘ offered the King was seditious, the King might
 ‘ proceed against every Man that was concerned
 ‘ in it; and those upon whom those Taxes had
 ‘ been levied, might bring their Actions against
 ‘ those who had levied them: But it seemed
 ‘ very strange, that when none of the Petitioners
 ‘ were proceeded against, for any Thing contained
 ‘ in that Petition, and when no Actions were
 ‘ brought on the Account of those Taxes, that
 ‘ the whole Body should suffer in common for
 ‘ that, which none of those who were immedi-
 ‘ ately concerned in it, had been so much as
 ‘ brought in Question for, in any Court of Law.
 ‘ If the Common Council petitioned more ear-
 ‘ nestly than was fitting, for the Sitting of the
 ‘ Parliament, that ought to be ascribed to their
 ‘ Zeal for the King’s Safety, and for the establish-
 ‘ ed Religion; and it ought not to be strained to
 ‘ any other Sense than that to which they profess in
 ‘ the Body of their Petition; much less to be car-
 ‘ ried so far as to dissolve the whole Body on that
 ‘ Account. And as for the Tolls and Taxes, these
 ‘ were

' were Things practised in all the Corporations of
 ' *England*, and seemed to be exactly according to
 ' Law. The City since the Fire, had at a vast
 ' Charge made their Wharfs and Markets much
 ' more noble and convenient than they were be-
 ' fore; and therefore, they might well deny the
 ' Benefit of them to those who would not pay a
 ' new Rate, that they set on them for the Pay-
 ' ment of the Debt contracted in building them:
 ' This was not the Imposing a Tax, but the Rai-
 ' sing a Rent out of a Piece of Ground, which
 ' the City might as well do, as a Man who re-
 ' builds his House, may raise the Rent of it. All
 ' the Precedents that were brought, were exa-
 ' min'd and answer'd: Some Corporations were
 ' deserted; and so, upon the Matter, dissolved
 ' themselves. Judgments, in such Cases, did not
 ' fit this in Hand. The Seizing on the Liberties
 ' of a Corporation did not dissolve the Body; for
 ' when a Bishop dies, the King seizes the Tem-
 ' poralities; but the Corporation still subsists, and
 ' they are restored to the next Incumbent. There
 ' were indeed some very strange Precedents made
 ' in *Richard II.*'s Time; but they were follow'd
 ' by as strange a Reverse. The Judges were
 ' hanged for the Judgments they gave. They
 ' also insisted on the Effects that would follow on
 ' the Forfeiting the Charter: The Custom of
 ' *London* was thereby broken; all the publick
 ' Endowments and Charities, lodg'd with the
 ' City, must revert to the Heirs of the Donors:
 ' This is the Substance of the Argument, as I
 ' had it from *Pollexfen*. As for the more intricate
 ' Points of Law, I meddle not with them, but
 ' leave them to the learned Men of that Profes-
 ' sion. When the Matter was brought near Judg-
 ' ment, *Saunders*, who had laid the whole Thing,
 ' was made Chief Justice; *Pemberton*, who was
 ' not satisfied in the Point, being removed to the
 ' Common Pleas, upon *North's* Advancement
 ' *Dolben*, a Judge of the King's Bench, was
 ' found not to be clear; so he was turned out,

Judgment given in the Matter.

and *Withins* came in his Room. When Sentence was to be given, *Saunders* was struck with an Apoplexy, so he could not come into Court; but he sent his Judgment in Writing, and died a few Days after. The Sentence was given without the Solemnity that was usual upon great Occasions: The Judges were wont formerly in delivering their Opinions to make long Arguments, in which they set forth the Grounds of Law, on which they went, which were great Instructions to the Students and Barristers; but that had been laid aside ever since *Hale's* Time.

The Judgment now given was, That a City might forfeit its Charter; that the Maleverfations of the Common Council were the Acts of the whole City, and that the two Points set forth in the Pleadings, were just Grounds for the Forfeiting of a Charter. Upon which Premises the proper Conclusion seemed to be, That therefore the City of *London* had forfeited their Charter: But the Consequences of that were so much apprehended, that they did not think fit to venture on it; so they judged, that the King might seize the Liberties of the City.

The Attorney General moved, contrary to what is usual in such Cases, that the Judgments might not be recorded; and upon that, new Endeavours were used to bring the Common Council to deliver up their Charter; yet that could not be compassed, though it was brought much nearer in the Number of the Voices, than was imagined could ever be done.

What Credit is to be given to the Bishop's Account, the Readers may judge for themselves; but a Man that has so grossly abused his best Friend, King *William*, would scarcely spare any Body else.

The TRIAL of WILLIAM SACHE- Page 520.

VERELL, and others, for a Riot committed at Nottingham, at the King's Bench Bar. 2 May 1684. Pas. 36 Car. II.

THE Defendants having pleaded Not guilty, were brought to their Trial in *Westminster-Hall*, on the 2d of *May 1684*, and the following Jury sworn.

<i>Sir Humphry Miller,</i>	<i>Humphry Stiles,</i>
<i>Sir Henry Bosvile,</i>	<i>Walter Hooper,</i>
<i>William Lambert,</i>	<i>James Masters,</i>
<i>Charles Wheeler,</i>	<i>Richard Britton,</i>
<i>Richard Marsh,</i>	<i>Ralph Petly, and</i>
<i>Edward King,</i>	<i>Edward Bathurst.</i>

The Information was brought by the Attorney General, and set forth, That on the 29th of *September*, in the 34th Year of the King, there was an Assembly duly summon'd at the Town of *Nottingham*, before *Gervas Wild*, then Mayor of the said Town, for the Election and swearing of a new Mayor there for the Year ensuing ; that the Mayor began to proceed to Election, and made Proclamation for all Persons to depart, who were not concerned in the Election : That the Defendants, *William Sacheverell, Esq; George Gregory, Esq; Richard Mansfield, Esq; Henry Plumtree, Esq; Charles Hutchinson, Esq; John Greaves, Gent. William Greaves, Gent. Samuel Richards, Robert Green, Francis Salmon, Arthur Riccards, Ralph Bennet, John Sherwin, Will. Wilson, Clerk, Samuel Smith, Thomas Trigg, Richard Smith, John Hoe, William Smith, Joseph Turpin, Nathaniel Charnell, Humphry Barker, and Jos. Astlin*, being no Way concerned in the Election, but being evil disposed Persons, to disturb the Peace of that Town, did in a riotous Manner, as-

Attorney General Sir R. Sawyer.
The Information.

semble themselves with many other ill disposed Persons, to the Number of five hundred, and continued in this Riot for the Space of seven Hours, with a great deal of Noise and Tumult; and with Force and Arms did riotously carry away and detain the Mace of *John Malin*, then one of the Sheriffs of the said Town, to the great Terror of his Majesty's Subjects, to the evil Example of others, and against the King's Peace, &c. But the Defendants having alledged, that the Inhabitants of the said Town and County of the said Town of *Nottingham*, ought not to be drawn out of the said County; and that the County of *Kent* is the next County to the County of the Town of *Nottingham*, and therefore pray'd that a Jury of the County of *Kent* might try the Issue: The King's Attorney agreed to it, and the Jury was return'd from that County accordingly.

A Jury return'd
from the County
of *Kent*.

Mr. Recorder
Jenner.

Mr. *Holloway*, Counsel for the King, having opened the Information, Mr. Recorder, Sir *Thomas Jenner*, stated the Facts: He said, that this was an Information against one and twenty Persons (of whom all but two, viz. *Richard Mansfield* and *Henry Plumtree*, had pleaded Not guilty) for a notorious Riot, and continuing it two Days together: That Mr. *Sacheverell* was in the Front of them, who with seven more of the Defendants, (very considerable Persons, who were not concerned either by the old or new Charter in this Election, but mere Strangers) came on Purpose to inflame and incite the Tumult. That on *Michaelmas Day 1682*, *Gervas Wild*, the Mayor, that then was, being at his House, with some of his Brethren, in Order to go to Church, as was the Custom of that Place, on the Day of Election; and having Notice that a Charter was coming down, and suddenly expected, Mr. *Sacheverell*, and the other Rioters, insisted on going to Church early, that an Election might be made before the new Charter came down; the Mayor desir'd them to stay a little, but could not prevail. They went to Church, and while they were there, the new Charter came: Whereupon the Mayor went to the Council-

Council-Hall, in Order to be sworn ; which the Rioters having Notice of, came to the Hall with *Sacheverell* at the Head of them, who said : We will have no new Charter, we will have no such Mayor as you would have, we will have *Greaves* Mayor ; and immediately the Mob cry'd out, A *Greaves* Mayor, a *Greaves* Mayor, making a Tumult and Uproar, which neither the Mayor or Sheriffs could appease ; the Mayor being forced to leave the Council-Chamber, went to the Common Hall, where he got himself sworn. Then the Rioters came and told him they had elected *Greaves* Mayor in the Council-Chamber, and requir'd him to swear him ; but the Mayor told them it was no Election, and retir'd to his House and made another Choice. In the mean Time, the Rioters having gotten one of the Maces away by Force, went to the Cross, and there proclaimed *Greaves* Mayor, with great Shoutings and Rejoicings, declaring they would have *no new Charter, the new Charter was not worth a Groat.* While the Rioters were there, the old Mayor came down with the Mayor that had been regularly chosen, and proclaimed him at the Market-Cross as usual, requiring the Rioters to depart ; but they resisted him, and defy'd his Authority. And not being satisfy'd with this, the next Day being Market-day, they proclaimed their Mayor again, which was a Practice never known at an Election : Then they desir'd the People to stand by them, and said, If Right was not done them now, they did not doubt of meeting with a Parliament that would do them Right : And such a Tumult and Disorder there was in the Town, the Rioters being headed by Persons of Distinction, that it was with great Difficulty appeased ; and ever since they had made it their Business to uphold the Power of their pretended Mayor, attending him from Place to Place, and opposing the Authority of the Mayor by the King's new Charter.

Mr. *North*, another of the King's Counsel observ'd, That if an Offence of this Nature was not taken Notice of, it would be thought that there was no Law in *England*, and that Controversies were not to be determined in *Westminster-Hall* by the Rules of Law and Justice, but by Noise and Tumults, and going together by the Ears : That the Surrender of the old Charter, and the sending down a new one, was no Secret, but well known ; and this had occasion'd that Assembly of Gentlemen, who had nothing to do in the Town, which made it evident that it was a premeditated Design to raise a Disturbance in the Place, in Opposition and Affront to his Majesty's Charter : They very well knew that Matters of this Nature were to be determined by Law ; and if the Mayor had no Authority by the new Charter, they might have question'd him for it ; but they chose to proceed in a tumultuous Way, and that had given Occasion to this Riot.

Mr. *Jones*, another of the King's Counsel observ'd, That had this Election been managed only by People that had a Right to vote, it might have been urged in Mitigation of the Offence ; but it was fomented by Foreigners, by Gentlemen, who came out of the Country with an armed Multitude, in an outrageous Manner, which border'd upon Rebellion ; and in Fact, the Insurrection spread so far, that if the Duke of *Newcastle*, the Lord Lieutenant of the County, had not rais'd Forces, and interposed in the Matter, there might have been much Bloodshed ; and if such Proceedings were not punished, the King's Authority and the Peace of Corporations, could not be preserv'd.

Mr. *Powis* : My Lord, we shall shew without meddling with the old or new Charter, it was a Riot.

Here *Wild*, *Edge*, and other Witnesses, were called.

Mr. *Pollexfen* : My Lord, they call *Wild* and others, who are Members of the new Corporation,

tion, to be Witnesses, who will thus have a Privilege by their own Testimony to maintain their Interest in the new Charter, which they ought not to do by Law.

Lord Chief Justice : We do not take Notice, one Way or other, of the Difference between the old Charter and the new : Do you think we intend to try the new Charter or the old Charter upon an Information for a Riot ? If there be a *Scire facias* in Chancery to repeal the new Charter, or a *Quo Warranto* here against the old, go on, in God's Name, in a regular Way. But do not tell me, supposing the new Charter is an ill one, and the old a good one, that Right and Wrong is to be try'd by a Rabble and Noise : No, the Business we are to try is, whether a Riot was committed by the Defendants against the publick Peace.

Sir George Jeffries.

Mr. Holt : My Lord, the Information is special, grounded upon the new Charter.

Mr. Just. Withens : If the King sends down a Charter to make a Corporation, the People shall not fly in the Face of them that bring it : It is not come to that yet.

Lord Chief Justice : You may go on and try your Right in a regular Way ; but we must keep to the Business before us, the Riot.

Mr. Wild sworn.

Wild : My Lord, I was Mayor when this Business happened : When the new Charter came down, I went strait to the Town-Hall, thinking to be sworn by this Charter, that I might be capable of swearing others. When I came there, I desir'd Alderman *Parker* and *Rippon* to go for Alderman *Edge*, the Town-Clerk, who was then at Church, that we might be sworn regularly : Mr. *Edge* sent Word he would not come, but came a little afterwards with Mr. *Sacheverell* and a great many other Persons, who had no Business there.

The Evidence for the King.

Mr. Recorder : Pray name them.

Wild : Mr. *Sacheverell*, Mr. *Hutchinson*, Mr. *Page* 524. *Plumtree*, Mr. *George Gregory*, Mr. *Green*, Mr. *Sherwin*, Sir *Thomas Parkins*.

Mr. Pol-

Mr. Pollexfen : He is not named here.

Lord Chief Justice : What if he does name others ; What Hurt is that to you ?

Wild : There were several others ; but these Gentlemen did not belong to the Town, and had no Business there ; some of them were not Burgeſſes, and they that were Burgeſſes, had no Votes there : I was amaz'd to ſee ſo many Gentlemen. I took the King's Charter out of the Box, and ſaid, Here is the King's new Charter, which he has been pleaſed to grant to the Town of *Nottingham*, and deſir'd Mr. Serjeant *Bigland*, the Recorder, to caſt his Eye upon it, and ſatisfy the Gentlemen that it was a new Charter, and the Contents of it : Says he, Do you aſk my Opinion as Recorder, or as a Counſel ? Says I, I aſk your Opinion as a Friend : Then ſays he, I will not give you my Opinion : Then ſaid I, Mr. *Edge*, it is your Duty to read it as Town-Clerk ; ſays he, I know what I was by the old Charter, but I do not know what I am by the new, and would not read it : Whereupon the People in the Room cry'd out, *No new Charter, No new Charter*. Says Mr. *Sacheverell*, This is not our Buſineſs here, we came to elect a Mayor by the old Charter ; and aſked me, If I would proceed to an Election, or no : Then they bid Mr. Alderman *Edge* take the Book and proceed to Election ; I told them they could not without my Conſent, and diſclaimed it, adjourning the Court to the *Guild-hall*, which adjourn'd to the Council-Chamber : So ſoon as I came to the Hall I was ſworn, and acquainted the Burgeſſes the King had granted a new Charter, and they ſhould hear it read. We commanded Silence three Times, but the Burgeſſes were very tumultuous, occaſioned by the Coming in of Mr. *Gregory* and *Hutchinson*, who came in and declared the Gentlemen in the other Room had elected Mr. *Greaves* Mayor, and deſir'd me to come and hear him ſworn. I ſaid they could not elect without my Conſent, and I would have nothing to do with it. Then the Burgeſſes became ſo tumultuous and outrageous, and made ſuch

such a Noise, that we were afraid they would have plucked us off the Bench. And my Brother *Parker* asked me, If I would stay there to be knocked on the Head: We commanded Silence again, and Mr. *Bawd*, a Barrister at Law, took the new Charter and read it distinctly, as far as the Burgeſſes would give him Leave: I commanded Silence again, and that they should keep the Peace, requiring those who had no Buſineſſ there to depart; but they were ſo outrageous that nothing was to be done: Whereupon I adjourn'd the Court to my own Houſe, and did all the Reſt of the Buſineſſ there, electing and ſwearing the Mayor, and other Officers. Preſently after I came to my Houſe, Mr. *Charles Hutchinson*, Mr. *George Gregory*, Mr. *Samuel Richards*, and Mr. *Arthur Riccards*, came very ſaucily to demand the Mace, who were not concerned in the Election, either by the old Charter or the new: I told them I received it by the King's Authority, and to the King's Authority I would give it again; and ſo they went away. After we had ſworn all that were in the new Charter, we choſe Mr. *Toplady* Mayor, and proclaimed him, as uſual, at the Market-Croſs: Whither came Mr. *Sherwin* and Mr. *Green*, with about forty more, throwing up their Hats, and crying, *No new Charter, No new Charter, A Greaves, A Greaves for a Mayor*. We thought they would have run in upon us.

Mr. Justice *Withins*: Who was at the Head of all this Rabble.

Wild: I believe, if Mr. *Sacheverell* had not been there, and thoſe other Gentlemen, we had had no Diſturbance. Page 525.

Lord Chief Juſtice: You have named *Sacheverell*, *Gregory*, *Hutchinson*, *Samuel Richards*, and *Arthur Riccards*; name the Reſt that were preſent.

Wild: There were Mr. *Green*, Mr. *Sherwin*, *John Greaves*, *William Greaves*, *Ralph Bennet*, *Samuel Smith*, *Thomas Trigg*, *Richard Smith*, *John Hoe*, *William Smith*, *Joſeph Turpin*, *Nathaniel Charnell*.

Mr. Re-

Mr. Recorder : How came they to be at Church before you came from your House ?

Wild : My Lord, the new Charter did not come till late in the Day ; I perswaded them to stay at my House a great while ; but Notice being given by one that was placed at the Top of the House, that it was come within the Limits of the Town : They cry'd, Away, let us go to Church ; and Mr. *Sacheverell* being in the Street, they followed him to Church, though I told them, If they would stay but a Quarter of an Hour, it would be there. I found there would be a Tumult, and we were afraid of being knocked on the Head : Whereupon I dispatched a Messenger to the Duke of *Newcastle* to come and assist us. He came to us on *Saturday* Night, and staid till we were pretty quiet again.

Mr. Recorder : What did they do on *Saturday* ?

Wild : It was the Day of proclaiming the Mayor at the other Cross, it being Market-day, when the Country People came in, that they may be satisfied who is Mayor.

Mr. J. Holloway : By the Custom of your Corporation, Is the Mayor proclaimed any other Day than when he is elected ?

Wild : Yes, the next Day. And after we had proclaimed our Mayor, there came a great many Gentlemen and proclaimed their Mayor.

Page 526.

Mr. Thomson : By whose Direction was the Assembly called.

Wild : I do not know, they had no Summons from me.

Mr. Holt : Is it not usual to meet without a Summons on the Day of Election ?

Wild : Never : But our new Charter not being come, I durst not give any Summons.

Mr. Stanhope : Did you observe Mr. *Sacheverell* and Mr. *Gregory* had their Swords on ?

Wild : I cannot speak particularly who had their Swords on, and who not ; I believe they might all have their Swords on.

Mr. Stanhope : Is Mr. *Sacheverell* a Burgefs ?

Wild : He was a Burgeſſs by the old Charter, but not an Elector by either Charter ; for the Electors are the Mayor, Aldermen, Sheriffs, Coroners, thoſe who have been Sheriffs, and the Reſt of the Council.

Lord Chief Juſtice : Did Mr. *Sacheverell* and Mr. *Gregory* uſe to appear at Elections of Mayors ?

Wild : No, my Lord, they had no Buſineſs there.

Mr. Stanhope : You ſaid Mr. *Hutchinson* came ſaucily to you ; How did he expreſs his Saucineſs ?

Wild : He came ſaucily to demand the Mace, which he had nothing to do with all.

Mr. Stanhope : Did he tell you from whom he came ?

Wild : He ſaid he came from Mr. *Greaves*.

Page 527.

Lord Chief Juſtice : And if Mr. *Greaves* had demanded it, he had talk'd ſaucily.

Mr. Stanhope : My Lord, I underſtand no ſuch great Saucineſs in it.

Lord Chief Juſtice : But I ſay it was ſaucy, and you had been ſaucy if you had done it ; every little prickear'd Fellow muſt come to demand Maces that are Badges of Authority, and they muſt not be told, forſooth, that they are ſaucy.

Mr. Malin ſworn.

He depoſed, That he was Sheriff at the Time of the Riot, and went out as far as *Leiceſter* to meet the Patent ; that they return'd with it about Eleven o' Clock on *Michaelmas* Day, and met Mr. *Sacheverell*, Mr. *Gregory*, Mr. *Hutchinson*, Mr. *John Greaves*, Mr. *William Greaves*, *Samuel Richards*, *Robert Green*, *Francis Salmon*, *Arthur Riccards*, *Ralph Bennet*, *John Sherwin*, *Samuel Smith*, *Thomas Trigg*, *William Smith*, *Joſeph Aſtlin*, and *Nathaniel Charnel*, at the Gate call'd the *Rye Smithgate*, with a great many more : That he afterwards met Mr. Mayor, and deliver'd the new Charter to him, and ſtaid ſome Time at the Mayor's Houſe, with the Gentlemen of their Party. That they went from thence to the *Guild-hall*, and being in the Council-Chamber, Mr. Mayor ſent

sent for Mr. *Edge*, the Town-Clerk ; that he found him and the Rest at Church, sitting in the Order they used to do, ready to go to an Election in the Vestry, as had been the Custom. Mr. *Edge* did not come presently ; but after some Time, he, with the Gentlemen and several hundred more, came to the Council-Chamber ; and the Mayor being about to read the new Charter, they began to make a Stir. Mr. *Sacheverell* was the first that spoke, and said, They came there to elect a Mayor by the old Charter : Mr. Mayor told the Gentlemen, He did not know any Business they had there, and made Proclamation ; whereupon they called out for a Poll, and would not depart. Then Mr. Mayor took up the Mace, and went with some of the Aldermen into the *Guildhall* ; but they had much ado to escape : As they laid their Hands upon the Mace to stop it, the Serjeant got away with it, and went out with the Mayor. Mr. *Sacheverell* said, Stop the Books, several Times ; and Mr. *Woodhouse*, one of the Coroners, laid hold on one of the Books : That the Deponent was crouded out, and forced to leave his Mace on the Board amongst them, for there was no staying there, unless they had a Mind to be knocked on the Head ; that he went afterwards to demand the Mace, and they told him, they had as much Right to the Mace as he had, particularly Mr. *Salmon*, Mr. *Richards*, Mr. *Bennet*, and Mr. *Arthur Riccards* : He answer'd, That was strange, for he was Sheriff still by the old Charter, till another was elected in his Room, and that he was Sheriff also by the new Charter ; that he had bought the Mace, as was the Custom there for every Sheriff to do ; and he loses ten Shillings by it, when he delivers it to the next Sheriff, at the Year's End. That when Mr. *Wild*, the Mayor, came out into the *Guildhall*, he found Abundance of Burgeesses there : He told them, They should hear the new Charter read, and would find that none of their Privileges were diminished, but rather encreased, and shewed them the Broad Seal. At which Time,

Mr. *Hutchinson* and Mr. *Gregory* came in, and desir'd the Mayor to come to the Council-House and hear *Greaves* sworn, whom they had chosen Mayor; that thereupon the Burgeffes, who were pretty quiet before, and listning to hear the Charter read, flung up their Hats, and cry'd, *No new Charter, A Greaves, A Greaves, Mayor.* Then Alderman *Parker* run away, saying, He would not stay to be knocked on the Head; and the Mayor took up the Mace, and run after him.

Mr. *Recorder*: Did they restore the Mace to you?

Malin: They came the next Day, and tender'd me the Money for the Mace; but I told them, I knew no Right they had to it, I would take no Money for it.

Mr. J. *Holloway*: Can any one demand the Mace before the Gaol is turn'd over?

Malin: Yes, the Ensigns of Authority are deliver'd to them presently after they are sworn; but the Gaol may not be turn'd over in a Month.

Mr. *Holt*: How long did Mr. *Gregory* and Mr. *Hutchinson* stay in the Hall?

Malin: They staid so long as to demand the Mayor to come.

Mr. *Holt*: Did they carry themselves peaceably and civilly while they were there?

Lord Chief Justice: What had they to do there, Mr. *Holt*; If you have a Mind to ask Questions, I'll put you in Mind of a Parcel of Apprentices that met together to pull down Houses in *Moorfields*, and the Resolutions of all the Judges in that Case; there is Law for recovering every Man's Right; but Club-Law is not the Way to determine Right.

Mr. *Rippon* sworn.

He deposed, That on *Michaelmas* Day 82, about Eleven o' Clock, the Charter came down; that he was then with Mr. *Wild*, the Mayor, and they went forthwith to the Hall, and desir'd the Mayor to be sworn by Mr. *Beverly*, the Steward; but he said, he would stay till Mr. *Edge*, the Town-Clerk, came to do it, according to his Office;

fice, and desir'd the Deponent and Alderman *Parker* to go to the Church, and call him; that *Edge* answered, If they would come thither, well and good, he should not concern himself any further: Then they demanded the Books that concerned them, and *Edge* said, they were there: Whereupon they came back to the Hall, and Mr. *Wymondsell*, the Deputy Recorder, was reading the Charter. The Mayor said, he would be sworn and proceed to Election; but presently came Mr. *Sacheverell* and Mr. *Hutchinson*, with a great Company, and he could repeat their Names, if he looked on his Paper: There was *William Sacheverell*, Esq; *George Gregory*, Esq; *Charles Hutchinson*, Esq; *John Greaves*, Gent. *Will. Greaves*, Gent. *Samuel Richards*, Gent. *Rob. Green*, Gent. *Francis Salmon*, Gent. *Arthur Riccards*, Gent. *Ralph Bennet*, Gent. *John Sherwin*, Gent. *William Wilson*, *Samuel Smith*, *Thomas Trigg*, *Richard Smith*, *John Hoe*, *William Smith*, *Jos. Turpin*, Gent. *Nathaniel Charnell*, *Jos. Astlin*; that several of the Gentlemen came in with Swords by their Sides, to the Terror of those that were there: He was very much afraid himself. Then Mr. Mayor desir'd Alderman *Edge* to take the Charter and read it, for the Satisfaction of himself and the Gentlemen: Mr. *Sacheverell* said, that was not their Business, they came to elect a Mayor by the old Charter, and very hot they were, calling out, *To Election, To Election*; so that Mr. Mayor could not be heard: And asked the Mayor who he was for; who answer'd, He was for none, and withdrew into the Hall with his Party, and there they swore the Mayor. After which, he shewed the People the new Charter, and they were pretty quiet: When in came Mr. *Hutchinson* and Mr. *Gregory* to acquaint Mr. Mayor they desir'd his Company at the swearing Mr. *Greaves* Mayor, (for he is no Mayor, unless sworn in by the preceding Mayor) he answer'd, I have nothing to say to him; I know no Mayor that he is; we are about our Business, obeying the King's Authority. Whereupon they having
animated

animated the Multitude, they cry'd out, *No new Charter, A Greaves Mayor*, and his Waistcoat was rubb'd to Pieces, in endeavouring to save the Charter; he had much ado to save it. That Alderman *Parker* was afraid, and left the Bench, and the Deponent, with the Mayor, made shift to get away; but if he touched the Ground, he wished he might never see his Wife again.

Lord Chief Justice: Whether that be a Curse, or no, I cannot tell.

Rippon: Had you been there Sir, you would have been afraid too.

Mr. Recorder: Pray speak that again.

Rippon: I say again, when I went down with Mr. Mayor, I did not touch the Ground for eight or nine Yards together; they would not make Way, and several of them pulled me by the Gown; however we got to the Mayor's House, and fell to the Business of the Day; and by that Time we had three Parts done, they proclaimed their Mayor; and Mr. *Hutchinson*, Mr. *Gregory*, *Samuel Richards* and *Riccards*, came to demand the Great Mace for Mr. *Greaves*, their Mayor. Mr. *Wild* told them, he receiv'd it by good Authority, and would never part with it, but to as good Authority as he receiv'd it from. About Six o' Clock in the Evening we went to the Cross, and there proclaimed the Mayor according to the new Charter. The next Day we were afraid of a Disturbance, but went about Nine o' Clock, and proclaimed the Mayor again; and about Eleven, all those Gentlemen came, and proclaimed Mr. *Greaves* Mayor: This was upon the *Saturday*. There were Mr. *Sacheverell*, the two *Greaves's*, *Green*, *Richards* and *Bennet*.

Mr. Holt: Did you see them there?

Rippon: Yes, I did, and there were besides, Page 530.
Salmon, *Arthur Riccards*, *John Sherwin*, and *William Wilson*.

Reynolds sworn.

He deposed, That he brought the new Charter from *London*, that he was sent to the Church for Mr. *Edge*; that Mr. *Sacheverell*, and a great many

Page 531.

more, came to the Council-House, and insisted on chusing a Mayor by the old Charter; that Mr. Mayor made Proclamation for all Persons to depart that had no Business there; that the Mayor, and others, retir'd to the Common Hall, and Mr. Gregory and Mr. Hutchinson came thither, and told him, they had elected Greaves Mayor, which occasioned a Tumult, as the other Witnesses had deposed: Whereupon the Mayor adjourned to his own House, and Mr. Toplady was chosen Mayor there; and afterwards, as they were proclaiming him at the Cross, Mr. Sherwin and Mr. Green came shouting, with many others, and crying, *No new Charter, A Greaves Mayor.*

Mr. S. Ward: Did you hear any Thing concerning stopping the Books?

Reynolds: I heard Mr. Sacheverell cry out, Stay the Books, Stay the Books.

Mr. Holt: Was the Mayor sworn when you made Proclamation?

Reynolds: It was in the Council-House before any Thing was done.

Alderman Parker sworn.

He deposed, That on *Michaclmas-Day* was Twelvemonth, he came to Mr. Gervas Wild's House, the then Mayor, about Eleven o' Clock; that a great many were met there, in Order to the Chusing a Mayor, and many others, of whose coming the Mayor knew nothing. They importuned the Mayor to be gone, in Order to the Election; and after a-while, that Party withdrew out of the House, and were met by some Gentlemen who went with them to St. Mary's Church: That immediately after the Charter came, and the Mayor and his Party went to the Council-House, and sent for Edge, the Town-Clerk, out of Church, as was deposed by the other Witnesses. That the Deponent observed there was a special Commission in the Charter, directed to four or any two of them, to swear the Mayor; and he told Mr. Wild, they could do nothing till they had sworn him; but before it could be done, Mr. Edge, Mr. Sacheverell, and the following Gentlemen, came

Page 532.

came down, viz. Gregory, Hutchinson, the two Greaves, Samuel Richards, Robert Green, Salmon, Arthur Riccards, John Sherwin, Ralph Bennet, and Wilson, the Rector of St. Peter's, Samuel Smith, Richard Smith, Triggs, Hoe, Barker and Charnell; that they had forced themselves into the Council-House, and forced the Mayor and his Party out. That the Deponent desir'd some of his Friends to take up the Mayor's great Mace, for the other Party were seizing it: That Mr. Sacheverell said, Stop the Books; and upon the Deponent's saying, Who dare stop the Books, Mr. Sacheverell said, They had nothing to do with the Books, I will ——— in a menacing Manner, and then held his Tongue. That by pulling off his Gown, the Deponent made a Shift to croud through; he dare stay no longer, the Rabble was buoyed up to that Height, he was afraid he should be knocked on the Head; so he went to his Brother Hill's, and said to his Wife, Sister, either give me a Glass of Wine or Sack, for I am e'en spent.

Lord Chief Justice: That was to recover his Heart again that was sinking; for an Alderman's Heart generally sinks in such a Fright.

Parker: Then I went back again: Said I, If they must be knocked on the Head, I will go and be knocked on the Head with them.

Lord Chief Justice: Ay, his Courage came again, when he had a Glass of Wine.

Parker: I met them, and said to the Mayor, Let us go to your House and chuse a Mayor, and all other Officers; and we went thither and chose a new Mayor, new Sheriffs, Coroner and Chamberlain, and gave them their Oaths; then we went, according to the Custom, to the Week-day Cross, and proclaimed them: And Mr. Sherwin, Mr. Green, and a great many others, came down hollowing and shouting, No new Charter, No new Charter, they cared not for the new Charter, it was not worth a Groat.

Lord Chief Justice: Who said that?

D d 2

Parker:

Parker : *Sherwin*, a Man of a good Estate. Our People were getting away as fast as they could ; hold, said I, Pray go on the old Rate, we are in a good Cause, and we dont fear them a Pin ; if they do fall on, it will be to their Cost.

Lord Chief Justice : Well said, thou hadst drank a good Glas of Sack, I perceive, for thou wert in a horrid Fright before.

Parker : Next Day they commanded all the Council in Town to attend them, with their new Mayor *Greaves* : There was *Ralph Edge*, *John Sherwin*, and a great many Gentlemen with Swords by their Sides, walked to the Cross, and proclaimed him. On *Sunday* Mr. *Greaves* came to Church with a great Croud at his Heels, and offered to come into the Seat where the Mayor was ; and we were so fearful of Disturbance, that we were forced to have a Guard to preserve the Mace, and secure it from being taken away by Violence. And we sent Post to the Duke of *Newcastle*, to let him know that we were afraid of being knocked on the Head ; and he came to us about Five o' Clock, and then we began to be a little in Hope.

Lord Chief Justice : Then you began to be in Heart again.

Mr. Recorder : How have they behaved themselves since ?

Parker : They have had such Cabals and Meetings, that we have often been afraid of them.

Mr. Holt : Did not you give a Vote for electing a Mayor according to the old Charter ?

Parker : I said, If you will have my Vote, I will give it for *Ralph Edge*.

Mr. Stanhope : How did Mr. *Wilson* (the Parson) behave himself ?

Parker : He was among the Rabble, when they were shouting and crying out, *No new Charter* ; he was an Abettor, and encouraged them in his Pulpit too.

Somner

Somner sworn.

He deposed, That he was the Sheriff's Ser- Page 534.
jeant at *Nottingham*; that there was a great Clut-
ter, one Side going out, and the other calling to
Election, and to stop the Books; and that his
Master, the Sheriff, going out, the Deponent got
hold of the Mace that lay upon the Council-Ta-
ble; but Mr. *Ralph Bennet*, Mr. *Salmon*, and
Mr. *Arthur Riccards*, took it from him again by
Force, and told him, he had nothing to do with
it; that his Master *Malin* afterwards demanded
it, and they bid him go about his Business: Then
he gives the same Account of the Tumult in the
Hall, the other Witnesses had done, adding, that
he desired *Martin Chambers*, that stood by him,
not to make a Noise; and that *Chambers* there-
upon up with his Hand, and hit him a full Swop
over the Face.

Wortley sworn.

He deposed, That he saw Mr. *Wilson* in the
Hall, and that he heard Mr. *Sacheverell* say, Stop
the Books.

Wright sworn.

He gave the same Evidence of the Coming Page 535.
down of the new Charter, and of the Tumult
at the Hall and the Market-Cross, as the other
Witnesses had done.

Mr. *Pollexfen*, Counsel for the Defendants, in
his Observations on the King's Evidence, said,
That they hop'd to make it plainly appear, that
they had done nothing but what became Loyal
Subjects, that they were far from inciting any Tu-
mult or Disorder in the Town, or any Thing that
could be called a Riot: He observed, That the
Information charged the Defendants as tumultu-
ously assembled to disturb the Election of the
Mayor upon the new Charter, for the Space of
seven Hours, upon that same Day; but there was
nothing mentioned of any other Day, and so all
that happened the next Day, was entirely out of
the Information. And as to what was charged
concerning the Taking away the Mace from *Ma-
lin*, it appeared that *Malin* was Sheriff by the

The Observa-
tions of the De-
fendants Coun-
sel upon the
King's Evi-
dence.

old Charter, and not by the new ; and then by the Surrender, he was out of Office, and no Sheriff, and so the Information failed ; they could not therefore maintain that Part of the Charge.

As to those Persons assembling themselves who acted under the old Charter, by that Charter the Mayor was to be elected, and take his Place on *Michaelmas-Day*. *Greaves* was nominated before that Time, on the 14th of *August*, according to Custom, and the Coroner had Power to swear the new one ; so that all Things were done by the old Corporation as usual. But it was objected, that some of these Persons were not of the Corporation, and others had no Voice in the Election by the old Charter : To which he answer'd, That supposing they had no Voice, yet it was no Crime to be there. If a Burgess of a Town was present at the Election of Officers, and did advise or assist in the Election ; this was no Crime. That there were not above four of the Defendants in the Hall, but only in the Council-Chamber ; and when the Mayor came and brought the new Charter thither, they did desire it might be read, so far were they from opposing it ; but upon his Taking it away, and going into the Hall, they proceeded upon the old Charter : And if that was in Force, their making an Election, swearing the Mayor, demanding the Mace, &c. was all regular, and according to antient Custom. There was no Offence, no Violence or Force, offered by any of these Defendants : Their crying, *A Greaves, A Greaves*, was but a Sort of an Applause, which in Elections is very usual ; and if their Proceedings were orderly, and such as were usual in Things of this Nature, it could not be construed a Riot, or Breach of the Peace. That if *Malin* was not Sheriff by the old Charter, which was surrender'd, neither could he be Sheriff by the new, for he was not sworn. There was an express Clause in it, That neither the Sheriff, or any other Officer, should take upon them their Offices till they had taken the Oaths ; and all that was done in the Council-Chamber, of which the Taking away the
Mace

Mace was Part, was before they had taken their Oaths; consequently they could not act by their new Charter; and so the Information fail'd as to every Thing done in the Council-Chamber: Besides, the Surrender of the old Charter was not enroll'd till the Seventh of *October* after, and the old Charter could not be determin'd before the Enrollment, and therefore they had been regular in acting under it: Had they omitted their Election on that Day, they had been faulty in not proceeding according to the old Charter.

Lord Chief Justice: Was *Malin* Sheriff, or not Sheriff?

Mr. Pollexfen: I believe he was Sheriff by the old Charter, but not by the New, as it is laid in the Information: It is expressly said there, That *Wild* was Mayor; that he had summon'd an Assembly to chuse a Mayor according to the Charter granted by his present Majesty; That the Defendants did disturb that Meeting and Election, and that they did take away the Mace from *Malin*, being the Ensign of Office belonging to the said Sheriff of *Nottingham*: They must make him Sheriff by the one Charter or the other; we say he was not by the New; they deny the Old to be in Being, and speak only of the New.

Lord Chief Justice: But I would fain know, Whether he was Sheriff, or not Sheriff.

Mr. Pollexfen: They that charge us with an Offence ought to make out the Charge.

Lord Chief Justice: They say he is Sheriff, and you say he is Sheriff your selves.

Mr. Pollexfen: That cannot consist with this particular Question.

Lord Chief Justice: It is said, that such a one being Mayor, and so he was, take it which Way you will; for if the new Charter have no Effect till the Surrender of the Old be enroll'd; then *Wild* was Mayor by the old Charter; and if he was Mayor, it was enough: And then they met to chuse a Mayor by Virtue of the new Charter; it was so said, though according to Strictness it could not take Effect till the Enrolment of the Sur-

render; but what is that to this Offence; was it not true in Fact, that he was then Mayor, and met in an Assembly for the Election of a new Mayor.

Mr. Pollexfen: True; but that will not support the Information: If it be alledged, That he was Mayor by the old Charter, then we have done nothing but what by the old Charter we might justify.

Lord Chief Justice: What had Mr. Sacheverell, Mr. Hutchinson, and my Parson Wilson, to do there?

Page 537.

Mr. Pollexfen: Mr. Sacheverell might be present at an Election as a Burgess, and then good my Lord, What have we done?

Lord Chief Justice: Wonderfully done! These Things you can never Answer: It is no Offence for a Freeman of London to be present at the Election of a Mayor: But if a Parcel of Freemen, who are not of the Livery, shall run themselves into the Business to give Voices, and Directions about that they have nothing to do with, crying out, Stop the Books, and deliver the Mace, they concern themselves, and meddle with an Authority to which they have no Pretence; and this is an Offence; but some Men will shew themselves wonderful Advisers, before their Advice is ask'd or needed.

Mr. Pollexfen: When your Lordship sees how the Fact does appear upon the Evidence, we shall not be thought guilty of any Disorder.

Mr. Holt: If *Gervas Wild* had no Authority to make an Election by Virtue of any Charter, then had he no Authority to make Proclamation, and then these Defendants are not Guilty: And as to *Malin* and the Mace, we say it did not belong to him, it is a Usurpation upon the King, without Authority by any Charter or Grant: And no Man can have any Ensign of Authority but by Grant from the King.

Lord Chief Justice: What Authority had you to take it away from him?

Mr. Holt:

Mr. *Holt* : It is said to be an Affront to the King's Authority, and it was not; for the very Mace was a Usurpation.

Lord Chief Justice : He was in Possession of it, and that is the same Thing as to you : Does the King question them for it? These Riots look more like the Times of Usurpation : When the Rabble meets to meddle with the Government.

Mr. ——— I desire only to offer one Word that has not been said.

Lord Chief Justice : I will hear no more Speeches ; call your Witnesses ; sure you take your selves to be in your common Halls and Council-houses, making Speeches.

Mr. *Pollexfen* : May we read the old Charter.

Lord Chief Justice : Ay, read what you will, and offer what Evidence you will, but let us not have such Doctrines preach'd among us, as settling Governments, and trying Rights by Club-Law.

Mr. *Pollexfen* : God forbid : I am sure no Body here desires any such Thing.

Edward Higley sworn.

Mr. *Holt* : Is that a true Copy of the old Charter ? *Shewing him a Paper-Book.* Page 538.

Higley : Yes it is.

Lord Chief Justice : What would you read it for.

Mr. *Pollexfen* : By that it will appear the Election was regular, according to the old Charter, which we say is still in Force, and by that the Mayor and Burgeses are to elect.

Lord Chief Justice : If you can shew an ancient Right for the Burgeses to be present, and the Council have ravish'd this Right from you, you would have done well to have asserted your Right in a legal Course. But do you think to regain your Rights by Club-Law, and throwing up your Hats ; by Noise and Riots, and opposing the King's Authority.

Mr. *Pollexfen* : We were never for opposing the King's Authority : We never were against the King.

Mr. Just. *Withens* : Who was that against, when you said : No New Charter, No New Charter.

Mr. *Lovel* :

Evidence on the Behalf of the Defendants.

Mr. Lovel : None of us cry'd so.

Lord Chief Justice : Who knows in a Croud, what Person makes a Noise? You were where you should not have been.

Mr. Pollexfen : We pray, the Charter made in the Reign of *Hen. VI.* may be read, which provides, that the Mayor be chosen by the Burgeſſes, and ſworn by the Coroner in the Abſence of the preceding Mayor: And the old Charter having preſcrib'd this Method, you will not admit any Alteration, unleſs ſome By-Law could be produc'd for it, as in *London*.

Lord Chief Justice : Yes; we ſhall go according to conſtant Uſage within Memory: Becauſe we will not try the Right one Way or other on this Information; ſhew by Uſage that ſuch Perſons as *Mr. Sacheverell* may be preſent at Elections.

Mr. Farewell : The Crime charg'd upon us is for not departing after Proclamation, and they do not prove that *Mr. Sacheverell* was there after Proclamation.

Lord Chief Justice : I thought you were full, you were ſo eager to ſpeak? but it is poſitively prov'd, That *Mr. Sacheverell* and the reſt ſtayed afterwards. Call *Reynolds* again: Did you make Proclamation, That all Perſons not concern'd in the Election ſhould depart?

Reynolds : Yes; and *Mr. Sacheverell* and the reſt ſtayed afterwards.

Mr. Holt : If they were in Poſſeſſion of the Government by their new Charter, they ſhould ſhew it; we will ſhew an old Charter, To the Mayor and Burgeſſes there —

Lord Chief Justice ? Can you ſhew a Charter, that the Defendants were Mayor, Aldermen, and Burgeſſes?

Luke Oldham ſworn.

Mr. Holt : Is that a true Copy? *Shewing him a Book.*

Oldham : This is a true Copy of the Charter that I examin'd at the *Tower*.

Mr. Pollexfen : We deſire the Clerk may read that Part of the Incorporating the Town, and the

the Power of chusing Mayor, fol. 81. Which was read.

Sir Thomas Parkins fworn.

Mr. Stanhope: Pray, how did Mr. Sacheverell and Mr. Hutchinson demean themselves in the Council-Chamber at this Election.

Sir Tho. Parkins: Very civilly for ought I perceiv'd, without any Disturbance to the Court, or any Body else.

Mr. Stanhope: Pray tell your Knowledge of what pass'd.

Sir Tho. Parkins: Understanding there was to be an Election of a Mayor for the Town of Nottingham on Michaelmas-Day; I went to the Church where it used to be; and having stay'd in the Chancel till Prayers were done; they were about going to an Election, and there was a Rumour that the new Charter was come; but I believe it was not then: The old Charter Men, as they were call'd, Alderman Greaves, the Recorder, Serjeant Bigland, Alderman Edge, and several others, sent to Mr. Wild, the Mayor, and his Brethren, who were then at the Town-Hall, and desir'd them to come to the Chancel, in order to the Election, as I am inform'd; but as I heard, they sent for Alderman Greaves, and the Rest that were at Church, to come down to the Town-Hall; they went down accordingly, and I went with them to the Town-Hall, and so into a Room, they call'd the Council-Chamber: Here they discours'd together, and some were for going to vote for a new Mayor; others said they had a new Charter, and must have a Mayor according to that Charter, desiring it might be read; but I think there was no Answer made to that: I saw the Thing they said was the new Charter in a Box, but did not see it out: Alderman Edge, I think, did say, *I understand what I have to do by the old Charter, but I do not know how I am to act by the New; We will proceed to the Election of a Mayor*; and then they went to voting; some voted for Edge, others for Toplady, but most for Greaves; and seeing he had a Majority of Votes,
Mr. Wild

Mr. *Wild* and Alderman *Rippon* rose up and went away.

Mr. *Pollexfen*: Did the Mayor oppose the Election?

Sir *Tho. Parkins*: No.

Mr. *Lovell*: Why was not the new Charter read?

Sir *Tho. Parkins*: I cannot tell, I heard they shew'd Mr. *Edge* his Name in the new Charter.

Lord Chief Justice: You are a Burgess: Were you ever at their Elections before?

Sir *Tho. Parkins*: No, but I have been at several of their Meetings.

Lord Chief Justice: How came you to be there at this Time.

Sir *Tho. Parkins*: Upon no Invitation, but on my own Accord.

Lord Chief Justice: How came you to accord at this Time?

Sir *Tho. Parkins*: I cannot answer you that.

Lord Chief Justice: Who gave their Votes there? Did you vote, or what did you do there?

Sir *Tho. Parkins*: There were several other Gentlemen of the Country there.

Lord Chief Justice: Did you hear no Proclamation made?

Sir *Tho. Parkins*: No, my Lord, I did not.

Lord Chief Justice: Did you hear no Cry in the Council-Chamber, *No New Charter, A Greaves, A Greaves.*

Sir *Tho. Parkins*: I did not hear any Outcry at all.

Lord Chief Justice: Did not you hear them say, *Pray stop the Books?*

Sir *Tho. Parkins*: No, I did not.

Lord Chief Justice: You did not hear any Thing that other People did: What did you see about the Mace?

Sir *Tho. Parkins*: The old Mayor went away with two of the Maces, and one was left behind, and presently Mr. *Malin* came back and demanded the other Mace; but 'twas answer'd, *They had*

as much Interest in it as Malin, for it was bought by several Contributors.

Lord Chief Justice: Pray, did you see the Thing, call'd *The new Charter*, as you express'd it?

Sir Tho. Parkins: No, I did not see it out of the Box.

Mr. Just. Holloway: Did you observe no Noise or Uproar?

Sir Tho. Parkins: No; by my Soul, not I.

Mr. Recorder: Was not you at the Proclamation in the Market-place, and was there not throwing up of Hats.

Sir Tho. Parkins: Yes; when they said, *God save the King*; the People said *Amen*, and threw up their Hats.

Mr. Stanhope: Did you hear *Mr. Sacheverell* desire them to be quiet and peaceable?

Sir Tho. Parkins: Yes, at *Mr. Greaves's House*: There being a Multitude of People, and a great Rabble like to be, *Mr. Sacheverell* desir'd the People to do their Business with all Modesty; and I think there never was so great a Number of People, that ever carried themselves more civilly than they did: I did not hear one angry passionate Word, or any Thing of that Kind.

Mr. Recorder: They were all of a Side then.

Mr. John Thinn sworn.

Mr. Pollexfen: Were you present at the Election of the Mayor of *Nottingham*.

Thinn: My Lord, I hear there are several indicted for a Riot there: I hope I shall receive no Prejudice for giving my Information here; I understand there is like to be an Information brought against me, if I give Evidence here.

Lord Chief Justice: Prithee Man, we know nothing at all of it; if you will Evidence, you may. Page 541.

Mr. Pollexfen: Were you present when this Matter was transacted on *Michaelmas-Day*?

Thinn: Being at Church at *Nottingham*, at that Time, and seeing a great Deal of Company in the Chancel, I went to see the Ceremony of Chusing a Mayor: I staid there an Hour after Prayer

Prayer was done, and there was an Expectation of the old Mayor, and others; but at last a Message came down, that Mr. *Wild*, the old Mayor, desired the Company to come down to the Hall, and I went thither with the Company into a Room, call'd *The Council-Chamber*: I sat down behind my Friend, Mr. Alderman *Edge*, but observ'd nothing at all of Heat, or one Word of Jangling. There was a Box upon the Table, which they said was the new Charter, but it was not read; they offer'd to shew Mr. *Edge* his Name, and that he had Power to act in it.

Mr. *Pollexfen*: Was there any Cry or Noise there?

Mr. *Thinn*: I do not know I heard one harsh or ill Word, or that there was so much as a Shout.

Mr. *Holt*: Did the old Mayor stay while they elected *Greaves*?

Thinn: He stayed there some of the Time.

Mr. *Pollexfen*: Did you hear any Proclamation made in the Council-Chamber?

Thinn: No, Sir.

Mr. *Pole* sworn.

He depos'd, That he was at Church at *Nottingham* on *Michaelmas-Day*, and went from thence to the Council-Chamber; and the Mayor desir'd Serjeant *Bigland's* Advice, how to proceed on the new Charter; but he said, Do you desire my Advice as Recorder, or as Counsel; to which no Answer was given: Then he ask'd Mr. *Edge* the same Question, who referr'd him to Serjeant *Bigland*: And after a-while, it was the general Cry, to go to a Poll.

Page 542.

Mr. *Stanhope*: Did the old Mayor oppose the Election?

Pole: I cannot say he did.

Mr. *Stanhope*: Did these Gentlemen behave themselves civilly?

Pole: I saw nothing but civil Behaviour.

Lord Chief Justice: Did not you hear a great Noise?

Pole: I believe I might hear some Noise, but I was in the Council-Chamber, not in the Hall.

Lord

Lord Chief Justice : Did you see any Thing about the Mace ?

Pole : Yes ; when *Wild* and his Company went out of the Room, Mr. *Malin* forgot the Mace, and some Body coming for it, one of the Gentlemen of the Council put it from him, and would not let him have it.

Mr. Just. Holloway : Did you hear any one say, Stop the Books ?

Pole : I think there was a Dispute about the Books among the Gown-Men.

Lord Chief Justice : Name me some of them.

Pole : I cannot, my Lord, name any particular Person.

Mr. Powis : Did Mr. *Sacheverell* concern himself about the Election ?

Pole : The old Charter People thought the Surrender had been surreptitiously obtain'd, and he might say, They had a good Right to insist on the old Charter.

Mr. Recorder : Did not you hear him say any Thing to the Mayor, when he came to the Council-house ?

Pole : No ; I did not.

Mr. Ward : Did you hear the Serjeant make Proclamation for all People to depart who had no Business there ? Page 543.

Pole : I did not.

Lord Chief Justice : What say you, *Reynolds* : Did not you make Proclamation ?

Reynolds : Yes ; I did.

Mr. Farewell : Who was there besides, that heard you make Proclamation ?

Reynolds : The Mayor was there.

Mr. Slater sworn.

Mr. Holt : Were you in the Council-Chamber at Nottingham on Michaelmas-Day ?

Slater : I was at St. Mary's Church with them, and went from thence to the Council-house : The Mayor and Aldermen stayed some small Time there, and then came out into the Common Hall, whither Mr. *Hutchinson* and Mr. *Greaves* came to his Worship, and told him the Council desir'd him

him to come and hear Mr. *Greaves* sworn, and presently some cry'd out, *A Greaves, A Greaves Mayor*; and Alderman *Rippon*, and others, bid them hold their Tongues, or it would be worse for them; but still they cry'd *A Greaves, A Greaves*: Then I saw Alderman *Wild* take a Book in his Hand, as to take an Oath, and there was a Shout, *A Greaves, A Greaves*; whereupon Alderman *Parker* went off the Bench, and said, *A Riot, A Riot*.

Roger Ryely sworn.

Mr. *Holt*: Were you at the Election of the new Mayor the *Michaelmas-Day* was Twelvemonth?

Ryley: I was at the first Nomination, the 14th of *August*, according to the Custom; and on *Michaelmas-Day* I was summon'd in upon the Cloathing: The new Mayor went to the old Mayor's, and waited there a long Time to go to Church; at last the old Mayor would not go, but stay'd waiting for a new Charter; so we went to Church, and from thence to the Hall, and a new Mayor was chosen, Mr. *Greaves*, who was sworn by Alderman *Edge*.

Lord Chief Justice: Did you ever know the new Mayor sworn when the old Mayor was absent?

Ryley: I cannot tell whether I ever did.

Lord Chief Justice: Then, when *Edge* gave *Greaves* the Oath, was the old Mayor there?

Page 544.

Ryley: They would not abide the Place, but went away.

Mr. *Farewell*: Was there any Disturbance in the Council-house?

Ryley: None that I saw.

Lord Chief Justice: Was there no Proclamation made?

Ryley: I heard none, and I do not believe a Proclamation could be made, and I not hear it.

Thomas *Muxlow* sworn,

Mr. *Recorder*: Were you an Elector?

Muxlow: I had a Vote there, and there was a fair Election, according to Custom.

Mr. *Stanhope*: Was it peaceable and quiet.

Muxlow: Yes; there was no Disturbance at all.

Lord Chief Justice: Was you there when *Greaves* was sworn?

Muxlow: Yes, I was; he was sworn by one of Coroners.

Burrows sworn.

He depos'd, That he was in the Town-Hall on *Michaelmas-Day*, and there came a Gentleman from the Council-Chamber and acquainted Mr. *Wild*, the Mayor, that the Burgeffes had elected Mr. *Greaves*, and ask'd him to come and hear him sworn; That Mr. *Wild* answer'd, he could not come presently, but he would by and by; and some Body cry'd out, *A Greaves, A Greaves*, and there was a great Shout.

Lord Chief Justice: Prithee Friend, wer't thou of the Cloathing?

Burroughs: No, my Lord; but I was a Burgefs.

Lord Chief Justice: *Reynolds*; did you see this Fellow there; was he one of the Shouters?

Reynolds: Yes; and he flung up his Hat.

Burroughs: I cannot say I did not shout.

Parker sworn.

Page 545.

He depos'd, That he met *Reynolds* when he brought down the new Charter; and after the Mayor had receiv'd it, he bid him tell Mr. *Sacheverell*, and the Rest, If they would go to Church, he would come to them; That Mr. *Sacheverell* look'd on his Watch in the Church, and said, he had staid above an Hour; and immediately a Message came from the Mayor, desiring them to come down to the Town-Hall; That the Deponent went down to the Hall with them, and the Gentlemen went into the Council-Chamber; and as he was waiting in the Town-Hall, out came Alderman *Rippon*, the Mayor, and Mr. *Malin*; and by and by after them, Alderman *Parker*, and sat down upon the Bench, and proceeded to swear Mr. *Wild* Mayor; but before he said any Thing, two came from the Council-house, and told him they had elected Mr. *Greaves* Mayor, and desired Mr. *Wild*, and the Rest, would come and hear him sworn: He refus'd to go, but said, we will go

on, and when he had gone about half Way in the Oath, some Body cry'd, They were swearing Mr. *Greaves*, Mayor; and upon that both Parties cry'd, *A Greaves, A Greaves*; and another cry'd, *A Wild, A Wild*: Upon this Alderman *Rippon* took out the new Charter, and said, Look ye, we do nothing but by Authority; we have his Majesty's Order, and the Broad Seal: And some Body saying, It was reported, that they were depriv'd of their Privileges; he said, If it was so, he would forfeit his Head and his Estate; and proceeding to swear Mr. *Wild*, the Burgeſſes gave another Shout; whereupon Alderman *Parker* went out, and he thought, cry'd, *A Riot, A Riot*; a little after they all went off the Bench, and met Alderman *Parker* in the Street, coming to the Hall again: That they went together to the Mayor's House, where he heard they swore the Officers according to the new Charter.

Mr. *Pollexfen*: Were any of the Defendants, Mr. *Sacheverell*, or Mr. *Gregory*, at the Shouting in the Hall?

Parker: Not that I know of.

Mr. *Farewell*: He ſays, the Mayor ſent for Mr. *Sacheverell*, and the Reſt, from Church.

Lord Chief Juſtice: How do you know the Mayor ſent to Mr. *Sacheverell*? It has been ſworn that the Meſſage was directed to Alderman *Edge* and Serjeant *Bigland*.

Parker: They deliver'd it when Mr. *Sacheverell* was preſent, and he went down with them.

Here the new Charter was read.

Mr. *Pollexfen*: Is there not a *Proviſo* in it, That the Mayor ſhould not act till he be ſworn.

Lord Chief Juſtice: Admit it be ſo; what then?

Mr. *Pollexfen*: Then it follows, That we muſt be *Not guilty*, for it is plain this Man could not take upon him the Office of Mayor till he was ſworn; and then ſuppoſe the old Charter gone, by this there is no new Mayor till he be actually ſworn; and then this cannot be ſuch an Aſſembly as is laid in the Information.

Lord

Lord Chief Justice: You Mistake; the Proclamation was after the Swearing.

Mr. Pollexfen: No, my Lord, I am not mistaken in that.

Lord Chief Justice: *Reynolds*; was not the Proclamation after he was sworn.

Reynolds: I cannot tell, my Lord.

Lord Chief Justice: *Wild*; were you sworn before you gave Direction to make Proclamation.

Wild: I think the first Proclamation was made in the Council-house, before I was sworn: The other Proclamation was after I was sworn, in the Hall.

Mr. Pollexfen: When they sent out to tell *Wild* Page 546. that *Greaves* was elected, and desir'd him to come and swear him, and on his Refusing there was a great Shout: This was, I think, before he was sworn.

Wild: My Lord, I was just come into the Hall before the Messenger came in.

Mr. Pollexfen: Then, as to the Business of the Mace, the Information will not hold, because he was not then Mayor; this tumultuous Proceeding and Seizing the Mace, as they call it, was before he was sworn; and this Information supposes all the Fact was done while he was Mayor.

Mr. Holt: It appears by *Wild*'s own Oath, that he was not sworn when Proclamation was made in the Council-Chamber, and the next was made in the Hall, which could not affect those who were in the Council-Chamber, and did not hear it: Now the Information is laid, That they continued together after the Proclamation; therefore we must leave it to your Lordship and the Jury.

Mr. Holt sworn.

Mr. Pollexfen: Pray, was *Mr. Barker* in the Hall or Council-Chamber all that Day?

Holt: No; I was at work with him from Six in the Morning till Eight at Night; and he was not out all that Time.

Mr. Sacheverell: I desire that *Mr. Serjeant Bigland* may be examin'd.

Mr. Serjeant *Bigland* sworn.

Mr. *Pollexfen*: Will you please to tell the Court what was done at the Election of this Mayor, on *Michaelmas* was Twelve-month.

Serjeant *Bigland*: I was at my House, when the Mayor and Aldermen sent to me to give my Attendance: I did attend, and stayed an Hour or Two, and afterwards went to Church, where Alderman *Rippon* came to me, and desir'd I would go down to the Hall, which I did: Mr. *Wild* and several Aldermen sat there, and they proceeded to an Election.

Mr. *Lovell*: How was their Carriage there.

Serj. *Bigland*: I saw nothing of Disorder.

Mr. *Lovell*: Was there any Proclamation made for People to depart.

Serj. *Bigland*: Upon the Oath that I have taken, I do not remember it.

Lord Chief Justice: Was the new Charter open'd?

Serj. *Bigland*: Some Part of it was opened.

Lord Chief Justice: Upon your Oath; did you hear Mr. *Sacheverell* speak to the Mayor?

Serj. *Bigland*: No; I do not remember any such Thing.

Lord Chief Justice: Was there any Shouting.

Serj. *Bigland*: I was not in the Hall. In the Council-Chamber there was none.

Lord Chief Justice: Pray what Authority had you to swear *Greaves*.

Serj. *Bigland*: He was chosen by them who had a Right to chuse in *August* before.

Lord Chief Justice: But what Authority had you to swear him? It is worse in People that understand Law than others, That they should be present at those Things, and not advise People better: Here is Serjeant *Bigland* and Mr. *Edge* have mighty squeamish Stomachs, they cannot read the Charter, but ask nice Questions: *Do you ask me as Recorder or Counsel?* They would have done well to have advis'd People to meddle with their own Business. Let my Brother take that along with him.

Mr. *Edge*

Mr. *Edge* sworn.

Mr. Just. *Withens*: Did you ever know a Mayor sworn, when the old Mayor was not by?

Mr. *Edge*: I told them so; Mr. *Sacheverell* would have had me poll them in the Vestry, in the Absence of the Mayor; but I told them I would not have any such Thing done; and when the old Mayor went out of the Council-Chamber, they would have had me read the Oath; but I said I would not swear him but in the Mayor's Presence.

Lord Chief Justice: Gentlemen of the Jury; this is an Information against several Persons, whose Names shall be delivered you, for a Riot at *Nottingham*; but I must tell you only that Part affects them that relates to *Michaelmas-Day*; the Persons who were at the Cross next Day, and not in the Hall, are not concern'd in this Information: But it appears, all of them were concern'd, except one, and that was *Humphry Barker*.

Lord Chief Justice's Directions to the Jury.

As to the Right of the Charters, Whether the new or old Charter, in Point of Law, shall prevail, is not the Question; but I hope we shall never live to see the Time, when Club-Law shall prevail in *England*: Let the Right be never so much on their Side, they ought to have taken a legal Way to obtain it.

They insist, That they could not be guilty on this Information, because the Mayor was not sworn; but they are guilty of a very great Crime, because till another was chosen, he was Mayor: And they could not swear the new Mayor in the Absence of the old Mayor; whoever administered the Oath, was guilty of a very great Fault, as well as he that took it.

Gentlemen, There was no Occasion for their Assembling themselves in this Manner; if the Person they pretend was Mayor had been regularly chosen, they might have had a *Mandamus* here to admit and swear him, unless good Cause had been shewn to the contrary; there is no Right but has a lawful Remedy.

Page 548.

It is very unfortunate, that Men should concern themselves in Matters of Government where they have nothing to do: Country Gentlemen that never were at an Election before, come to busy themselves, and head the People; had they come only to satisfy their Curiosity, and been quiet there, it had been something; but to demand People to be sworn, calling People to look to the Books, and heading the Mob, that does not become any Man; and the greater his Name, the greater his Influence, and the greater his Offence.

Here are People without any Authority chusing a Mayor; that Mayor calls an Assembly together of all Sorts of People, and all Sorts of Disorders are committed, under Pretence of this Authority; which is setting up a Kind of Commonwealth; and had the Design been general, and not with a particular Intent, it had been High Treason.

The Evidence tells you, That all these Persons were present, Abettors and Assistants in this Matter; and if ever a Riot was prov'd in this World, this is prov'd upon every one of them, except *Barker*.

They pretend, That the Sheriff was no Sheriff till he was sworn; surely he was Sheriff till another was sworn; and if Sheriff, they ought not to take his Mace from him: If he was Sheriff *de facto*, in Possession of the Ensign of this Office, that is enough; the Right is not to be determin'd in such a Way as this.

Sir Thomas Parkins, and the Witnesses for the Defendants indeed, did say, That they heard no Noise or Shouting; all was wonderful regular; but you must believe all the Witnesses for the King actually perjur'd, unless you believe their Evidence; for what other People say, That they did not hear such and such Things, yet these People did hear; And though the Witnesses for the Defendants did not see, yet these did see; therefore you must find every Person you have in Charge guilty of the Riot; unless you will, without any Evidence, find the King's Witnesses guilty of Perjury.

Then

Then the Jury withdrew, and the Court broke up, and a private Verdict being deliver'd in the Night, the next Morning it was given in open Court, where they found twenty of the twenty-one Defendants that were in the Issue, guilty of the Offence and Misdemeanor in the Information; and the other Defendant, *Humphry Barker*, Not guilty.

In *Trinity-Term* following, the Defendants who had been found Guilty, were sentenced as follows:

<i>William Sacheverell</i> fin'd	500 Marks.	Page 549.
<i>George Gregory</i>	300	
<i>Charles Hutchinson</i>	200	
<i>John Greaves</i>	20 Nobles.	
<i>William Greaves</i>	20 Marks.	
<i>Samuel Richards</i>	20	
<i>Robert Green</i>	20	
<i>Francis Salmon</i>	5 Nobles.	
<i>Arthur Riccards</i>	20 Marks.	
<i>Ralph Bennet</i>	20 Nobles.	
<i>John Sherwin</i>	100 Marks.	
<i>William Wilson</i>	100	
<i>Samuel Smith</i>	20 Nobles.	
<i>Thomas Trigg</i>	20 Marks.	
<i>Richard Smith</i>		
<i>John Hoe</i>	20 Nobles.	
<i>William Smith</i>	20	
<i>Jos. Turpin</i>	100 Marks.	
<i>Nath. Charnell</i>	100	
<i>Jos. Astlin</i>	5	

And that the several Defendants do give Security for their Good Behaviour for a Twelvemonth.

The Case of the Corporation of Nottingham, as it was stated by the late William Sacheverell of Barton, Esq.

THE Town of *Nottingham* hath always claim'd to have been a Borough by Prescription, and it cannot well be doubted, that it hath been so, for that it appears by Domesday-

book, in the Time of King *William* the First, That the Burgeſſes of *Nottingham* then had divers Houſes and Parcels of Land in *Nottingham*, and the Burgeſſes of that Town were 173 in Number, in the Time of *Edward the Confessor*: That Town hath alſo always claim'd to have been a Corporation by Preſcription; and it is hard to believe it otherwiſe, becauſe no Charter of its firſt Incorporating could yet be found; and the Charters granted to the Burgeſſes of that Town by King *Henry* the Second, and King *John*, do imply them as a Body Corporate before thoſe Times.

Yet it appears by the Charter of King *Edward* the Firſt, That there was no Mayor of the Town before his Reign, for that he then was pleas'd to grant the Burgeſſes of that Town a Privilege, That they then-after ſhould chuſe a Mayor out of themſelves annually; and ſome of their former Charters, as well as that, ſhew, That for ſome Time before they had only Bailiffs of that Town. From *Edward* the Firſt's Time, under Mayor and Bailiffs the Town continu'd till *Henry* the Sixth's Time, who was pleas'd to make it a County, and grant them Sheriffs inſtead of Bailiffs, and the Privilege of chuſing out of themſelves ſeven Aldermen, and one of them annually to be Mayor; and that the Aldermen (as long as they ſo continued) ſhould be Juſtices of the Peace within that Town: And moreover, That the Burgeſſes of the Town of *Nottingham* ſhould for ever be a Body Corporate, by the Name of Mayor and Burgeſſes; nor hath any Charter ſince, nor any By-Law that can be heard of, given the Aldermen any more Power than they had by that Charter, which was then nothing more than every Burgeſs of that Town had, except being Juſtices of the Peace, and wearing Gowns and Hoods; ſo that the Aldermen, though of late they have taken upon them to ſit as Members of the Council of that Town, can neither preſcribe to that Power, becauſe there were no Aldermen in that Town before King *Henry* the Sixth's Days; nor can they claim to be of the Council of that Town, by
Force

Force of any Charter; for no Charter, either in *Henry* the Sixth's Time, or since, hath granted them any such Authority; nor did they pretend to sit in their Council, by Virtue of any By-Law of that Town, or ever shew'd any such By-Law, though their Right of sitting and voting there hath been denied in the Council by Members thereof.

The Aldermen indeed, in King *James's* Time began, though they had no Right so to do, to take upon them to be Part of the Council, and to intermeddle in the Town's Concerns, and to encroach so far upon the Burgeses, without their Consent, as to pretend to have a Right in the Setting and Disposing of the Corporation-Lands, and of the Bridge-Lands and School-Lands; but the Burgeses were so far from consenting to their having of any such Power or Authority, that they, in the Year 1605, by their Petition to the Lords of the Council-Table, complained of the Encroachments of the Aldermen, and prayed Redress. Upon which the Lords of the Council referred the Examination of the Matters in Controversy to the Judges of Assize that went that Circuit, to the End they might be certify'd and better inform'd by the said Justices of such Course, as upon good Advice and Deliberation they should find in their Judgments agreeable to Law, and meet to be set down, and order'd in that Behalf. Who accordingly enter'd into Consideration of the Complaints on both Sides, and advised with the Rest of the Judges, touching the Charter granted to their Corporation, and all other Matters meet to be consider'd of concerning the Matters in Controversy, and return'd Certificates of their Opinions of such Order of Agreement, as they thought fit and convenient to be observed and established, according to Law and Justice, for the publick Good and Government of the said Town. Wherefore the Mayor, and the Parties indifferently sent up to solicit a peaceful End of those Controversies, having taking Knowledge, did consent thereto; and

and thereupon, by Consent of the said Parties, it was amongst other Things order'd, That there should be a Council in that Town of Twenty-four Persons only, out of which the Aldermen, for the Time being, should always be excepted; and that the said Council, with the Mayor, or the greater Part of them, being at such Assembly, without any other of the said Corporation should set, and let the Town-Lands, Bridge-Lands, and School-Lands, taking upon them the Chamberlains, Bridge-Masters, and School-Wardens, respectively, as their Places for the Lands within their several Offices should require, as by the said Order and Agreement, which the Burgeſſes have ready to produce, when Occaſion ſhall require, will plainly appear: So that now all Pretence of the Aldermen being of the Council, or having any Thing to do with the Corporation-Lands, the School-Lands, or the Bridge-Lands, was adjudg'd againſt both by the Judges and the Lords of the Privy Council; and accordingly was wholly laid aſide till of late.

The Caſe ſtanding thus, and the Mayor, Aldermen and Burgeſſes of that Corporation, being by their Burgeſſ-Oath particularly obliged, that the Franchiſes of the ſaid Town they will maintain, ſuſtain, with their Bodies, their Goods, and their Chattels, to their Power, and them not let, neither for Love nor Dread, without Regard of any Man, but maintain the Laws, good Cuſtoms, and Franchiſes of that Town: And divers Burgeſſes of that Town being inform'd, about the Beginning of *Eaſter* Term laſt, that the Mayor, and ſome of the Aldermen of that Town, had a Deſign to ſurrender the Charters of that Corporation; it was ſcarce credited by any of the Burgeſſes, that the Mayor, or almoſt any of the Aldermen, would conſent to do a Thing ſo directly contrary to their Burgeſſ-Oath: Yet divers Burgeſſes of the ſaid Town, conſidering they had taken the ſaid Oath for preſerving the Rights of the Town, thought it but convenient, for the Preven-
tion

tion of the ill Consequences, which they well knew must befall that Town, if their Charters should be deliver'd up, and a new Charter taken, without the Privy, Consent, or Hearing, of the Burgeſſes of that Town, to order four *Caveats* to be enter'd: And accordingly in *Easter Term*, order'd two to be enter'd at the Lord Chancellor's, and two at the Attorney General's; one of which *Caveats* in each Place was against passing any new Charter to the Town of *Nottingham*, without the Privy, Consent or Hearing, of the Burgeſſes of that Town; the other, against the Accepting of any Surrender of any Charter of that Town, without the like Privy, Consent and Hearing; which said *Caveats* were enter'd accordingly.

And so the Matter rested till the 25th of *July* last. But upon that Day the Mayor called a Council, without giving Notice what the Business would be, unless it was to those of his own Party and Confederacy; but that he had Thoughts of surrendering when he came to the Hall, will be pretty manifest from what he did after the Question was put to the Vote, and the Poll taken. There appear'd at the Hall, the Mayor and five Aldermen, and Twenty-two of the Council, and Mr. *William Toplady*, (who the last Year, by Order of Mr. *Gervas Rippon*, the then Mayor, was sworn in as an Alderman, though Mr. *Sherwin*, who stood in Competition with Mr. *Toplady*, had near twice as many Votes; upon which Mr. *Sherwin* brought his *Mandamus*, and the Cause is yet undecided in the Court of King's Bench). After some Business in the Hall was dispatched, the Mayor caused a Question to be put for surrendering of the Charters of that Town; and tho' it was declared by some of the Council, that the Aldermen had no Right to vote therein, yet the Mayor caused a Poll to be taken, and admitted them and Mr. *Toplady* as Voters, save only, that Mr. Alderman *Edge* suspended his Vote, and gave it neither Way. The Rest voted as follows, viz.

For surrendering the Charter.

<i>Gervas Wild</i> , Mayor,	<i>William Petty</i> ,
<i>Christopher Hall</i> , Alderman,	<i>Robert Wortley</i> ,
<i>John Parker</i> , Alderman,	<i>Hugh Walker</i> ,
<i>Gervas Rippon</i> , Alderman,	<i>William Woolhouse</i> ,
<i>W. Toplady</i> , Alderm. <i>de facto</i> ,	<i>John Whitby</i> ,
<i>William Mabbot</i> ,	<i>Thomas Lee</i> ,
<i>Edward Mabbot</i> .	<i>John Unwin</i> .

Against surrendering the Charter.

<i>William Greaves</i> , Alderman,	<i>Richard Smith</i> ,
<i>John Greaves</i> , } Coroners,	<i>Francis Salmon</i> ,
<i>Sam. Richards</i> , }	<i>Ralph Bennet</i> ,
<i>Robert Green</i> , Sheriff,	<i>John Sherwin</i> ,
<i>Huntingdon Eyre</i> ,	<i>Samuel Smith</i> ,
<i>Roger Ryley</i> ,	<i>Thomas Trigg</i> ,
<i>Thomas Walker</i> ,	<i>William Smith</i> .

So that if the Aldermen should be admitted to have a Right to vote in the Council, yet here was no Majority for the Surrender. But on the contrary, the Aldermen having no Colour of Right, either by Prescription or Charter, or otherwise, for the Reasons aforesaid, to be of the Council; it is plain there was only the Mayor and nine of the Council for the Surrender, and thirteen of the Council against it; and consequently, that the greater Part of the Council voted against the Surrender. Nor can it be imagin'd, that the Council of that Corporation (being neither settled by Prescription nor vested in by Charter, but only brought in by Consent and Choice of all the Burgeses only, for the better Managery of the Revenues of the Corporation, and Dispatch of some other ordinary Affairs, and not intrusted with many Rights of that Town) can pretend to any Power of surrendering the Charters and Liberties of that Town, more than any small Number of Burgeses: So that how this Surrender of fourteen Men, against the Vote of the greater Number of the Council, and Will of almost all the Burgeses, should be good in Law,

is not yet well understood. And if the Putting the Town-Seal to an Instrument, without the Consent of the Body Corporate, should be said to be sufficient in Law to give away the Lands and Rights of any Body Corporate, then any Thief that can but steal the Corporation Seal, will have it in his Power, though he be no Member of the Corporation, to give up the Lands and Liberties thereof; which indeed would be a strange Piece of Law and Justice to be own'd in any Nation that pretends to Sense and Honesty. Yet Mr. Mayor, all this notwithstanding, did as soon as the said Vote was over, pull out of his Pocket an Instrument in Writing, purporting a Surrender of their Charter, and caused the Town-Seal to be affixed thereto, without any further Vote. The Draught of the Instrument, as it is commonly said, was first made at *London*, and thence transmitted to an honourable Person in *Nottinghamshire*; and by his Order convey'd to Mr. Mayor. But this Report, if it were not for one Thing, which it's believ'd will be prov'd if there be Occasion, might seem not well grounded; because, as it afterwards will appear, this Surrender was not thought sufficient, and so another was sealed; which yet, one of the Aldermen would have to be the very same Word for Word with that which was first sent up sealed to *London*; as if twice sealing would make that effectual, which was not so by being once sealed; but it is likely he had not heard what is commonly reported, and perhaps will be prov'd when Time serves, that the first Instrument for Surrendering that was sealed, was drawn so as to make a Surrender by the Right Honourable the Earl of *Hallifax* and Sir *Leoline Jenkins*.

After the said Vote touching the intended Surrender was over, many of the Burgeses of *Nottingham* considering their Oath, and that there were many Customs and Privileges in Reference to Trade, which the Burgeses of the Corporation held only by Custom and Prescription; and that as some of the Lands, which that Corporation held,

Upon the Dissolution of a Corporation, the Lands given to it return to the Heirs of those that gave them.

held, was by Grant from some of his Majesty's Royal Predecessors; so most of their Town-Lands (which are of great annual Value) were given by private Persons, thought fit to ask Advice of Council in several Points.

The first Question proposed to Council was, Whether, if the Charters were surrendered, and a new one taken, that new Grant would not preserve the Lands to the Corporation? To which Counsel reply'd, That if the Charters of any Body Corporate were lawfully surrendered, then the Corporation that held by such Charters was dissolved; and if they had any Lands which had been given to that Corporation, the Heirs of those that gave those Lands, would as soon as such Surrender was compleated, be entitled to the Lands, and recover the same. And they said, those Lands which have been given to such Corporation by any of his Majesty's Predecessors, his Majesty might, if he so pleas'd, grant them again to the Corporation; but no new Charter of his could, as they conceiv'd, give the Corporation any Title to those Lands which had been given by private Persons, or enable the Corporation to keep them from the Heirs of those that gave them, in Case such Surrender should be. And so they say it was resolved by the Judges, when the Monasteries were surrender'd or dissolv'd; and that therefore a special Act of Parliament was advis'd to be made, and accordingly was made to vest those Lands in the King, there being no other Way to hinder them from going to the Heirs of those that gave them, when by Surrender they had dissolved those Corporations.

The Commons lost upon a Dissolution.

The second Question proposed was, Whether, if the Mayor and Burgeesses of a Corporation claim any Right of Common, by Custom or Prescription upon other Mens Lands, as in the Case of *Stafford, Derby, Coventry*, and many other Corporations, they can surrender their Charters, and yet by any new Charter to be obtained from his Majesty, or by any Means, preserve their Right of Common? To which it was answered, That if
the

the Mayors and Burgeſſes of any Corporation claim ſuch Common, and afterwards make ſuch Surrender, and ſo diſſolve the Body Corporate, their Preſcription for Common is deſtroyed ; and though his Maſteſty ſhould pleaſe to incorporate them anew, yet their Title to the Common will, as they conceived, be totally loſt.

The third Queſtion was, Whether the Town of *Nottingham*, being one of the antienteſt Corporations of *England*, and free of Tolls in moſt Places, ſhould have the ſame Privilege if they ſurrender'd their Charters ? To which it was answered, That if the Town of *Nottingham* ſurrender'd their Charters, and ſo diſſolved their Corporation, then in all other Places that had formerly Tolls granted them, and kept their old Charters, they ſhould have Toll of *Nottingham* Men, and all ſuch Corporations as ſhall ſo ſurrender, notwithstanding any new Charter that can be granted them.

The laſt Queſtion propounded was, Whether if the Mayor, or any other Members of a Corporation, do without the Conſent of the major Part of the Body Corporate, occaſion the Surrender of the Charters of their Corporation, the particular Perſons that received Damage by their Surrender may not have an Action at Law for Recovery of their Damages ? To which it was answered, That it was no Queſtion but that every particular Perſon, that ſhould be any Ways damnified by ſuch Surrender, might by Action at Common Law recover all his Damages of thoſe Perſons that occaſion'd the Surrender : Yet it was thought adviſeable, as the moſt proper Way for preventing the Surrendering of the Charters, and of thoſe Inconveniencies and Suits which might be occaſioned thereby, or by taking of a new Charter, if obtain'd by the Mayor and a few of the Burgeſſes, without the Privity, Conſent, or Hearing of the Reſt ; that the major Part of the Burgeſſes ſhould preſent Mr. Mayor with their Senſe of his Proceedings, and declare their Diſſent from any Surrender.

They loſe their Privileges of being exempted from Tolls by their Diſſolution.

render. And accordingly a Writing was drawn and signed by betwixt three and four hundred of the Burgeſſes, and then a fair Copy made and examined with the Original, and ſo with all the Burgeſſes Names to it that had ſubſcribed, was by ſeveral of the Burgeſſes, and in Preſence of ſeveral Gentlemen of Quality that were no Burgeſſes, preſented to the Mayor upon the 4th Day of *Auguſt*, as the Senſe of moſt of the Burgeſſes of that Town. The Writing ſo preſented, was as followeth, *viz.*

Page 552.

To Mr. Gervas Wild, Mayor of Nottingham.

S I R,

‘ **W**E whoſe Names are hereunto ſubſcribed,
 ‘ being Burgeſſes of the Town of *Notting-*
 ‘ *ham*, and knowing or underſtanding that you
 ‘ and thirteen more of the Corporation, have with-
 ‘ out the Conſent of the Burgeſſes of this Town,
 ‘ and againſt their Will, taken upon you to agree
 ‘ to the Surrender of the Charters, Liberties and
 ‘ Franchiſes of this Corporation, and to cauſe the
 ‘ Corporation-Seal to be affixed to an Inſtrument
 ‘ for making of ſuch Surrender; and being by
 ‘ our Burgeſſ-Oath obliged to preſerve, as far as
 ‘ in us lies, all the Rights and Privileges of this
 ‘ Corporation; and conſidering what great Da-
 ‘ mages it muſt neceſſarily be to the Corporation
 ‘ in general, and to us and every other particular
 ‘ Burgeſſes of the Corporation, if the Charters,
 ‘ Liberties and Franchiſes ſhould be ſo surren-
 ‘ der’d, have thought our ſelves obliged, in Or-
 ‘ der to prevent ſo great an Evil, to ſignify theſe
 ‘ our Thoughts of what you have done and are
 ‘ about to do; and that many of your Liberties
 ‘ and Franchiſes, which are only held by Cuſtom
 ‘ and not by Charter, will certainly be loſt, if you
 ‘ make ſuch Surrender as you have agreed to. We
 ‘ do therefore hereby declare our Diſſent from
 ‘ thoſe your Proceedings; and that we neither do,
 ‘ nor ſhall conſent or have conſented, that any
 ‘ **I** Sur-

‘ Surrender of any Charter, Liberty, Franchise
 ‘ or Privilege of the Corporation of *Nottingham*,
 ‘ should be made either by you or any Members
 ‘ of this Corporation, or other Person or Persons
 ‘ whatsoever; and that we will by all lawful Ways
 ‘ and Means, oppose and hinder the Surrendering
 ‘ or Vacating of any of the Charters, Rights, Li-
 ‘ berties or Privileges of this Corporation; and
 ‘ that in Case you occasion the Surrender of any
 ‘ of the Charters, Rights, Liberties or Privi-
 ‘ leges of this Corporation, we shall expect from
 ‘ you such Satisfaction as the Law will allow us.

The Burgesſes were alſo adviſed to order, and
 accordingly did order, *Caveats* in the Names of
 ſome particular Burgeſſes, on Behalf of themſelves
 and moſt of the Burgeſſes of the Town, to be
 enter'd at the Lord Chancellor's, the Lord Privy
 Seal's, and in the Signet-Office, againſt Surren-
 dering of any of the Charters of that Town, with-
 out the Privy, Conſent and Hearing of the ſaid
 Burgeſſes, and againſt paſſing any new Charter
 to that Town, without like Privy, Conſent and
 Hearing. And the Burgeſſes have had an Account
 from their Agent at *London*, that he had enter'd
 ſuch *Caveats* at the Lord Chancellor's, and in the
 Offices of the Lord *Conway* and Sir *Leoline Jen-*
kins, it being commonly reported that the Lord
 Privy Seal had deliver'd up the Privy Seal to the
 ſaid Sir *Leoline*.

The Burgeſſes were further adviſed to petition
 the Lord Chancellor to be heard before any Sur-
 render of their Charters ſhould be accepted, or
 any new Charter to that Town ſhould paſs the
 Broad Seal; and accordingly a Petition was drawn
 and ſigned by above three hundred and ſixty Bur-
 geſſes, and a Copy thereof fairly engroſſed with
 the Names of the Burgeſſes that had ſubſcribed,
 was ſent and preſented to the Lord Chancellor at
Bath, on *Thursday* the 10th of this inſtant *Aug-*
uſt; which Petition was in theſe Words follow-
 ing, *viz.*

To the Right Honourable the Lord High Chancellor of England, the humble Petition of the Burgesſes of the Town of Nottingham, whoſe Names are hereunto ſubſcribed, on Behalf of themſelves, and moſt of the Burgesſes of that Town.

Moſt humbly ſheweth,

‘ **T**HAT the Town of *Nottingham* being a
 ‘ Borough by Preſcription, and an antient
 ‘ Corporation, and the Burgeſſes of that Town
 ‘ (who are a Body Corporate, by the Name of
 ‘ Mayor and Burgeſſes) having many Liberties,
 ‘ Privileges, Rights and Franchiſes which they
 ‘ hold by Grant and Confirmation from his Ma-
 ‘ jeſty and his Royal Predeceſſors, and many other
 ‘ Rights, Liberties and Privileges, which they
 ‘ hold by Cuſtom or Preſcription: And divers
 ‘ Perſons having given Lands to that Corporation
 ‘ of a very great annual Value, the preſent Mayor,
 ‘ with three or four of the Aldermen, and nine
 ‘ other Burgeſſes of that Corporation, have de-
 ‘ clar’d their Deſign to take a new Charter;
 ‘ and have taken upon them, without the Conſent
 ‘ of your Petitioners and moſt of the Burgeſſes
 ‘ of that Town, to agree to the Surrender of the
 ‘ Charters of that Corporation, and have taken
 ‘ the Town-Seal, and affixed it to an Inſtrument,
 ‘ deſigning thereby to make an actual and abſo-
 ‘ lute Surrender of all the ſaid Charters; which
 ‘ if they have Power to effect, it will (as your
 ‘ Petitioners are adviſed) not only diſſolve the Cor-
 ‘ poration, deprive your Petitioners and other
 ‘ Burgeſſes of that Town, of many Rights, Li-
 ‘ berties and Privileges, which they held by Cu-
 ‘ ſtom and Preſcription, cauſe all the Lands given
 ‘ to that Corporation to revert to the Heirs of the
 ‘ Donors, and diſinherit your Petitioners and other
 ‘ Burgeſſes of that Town, of all the ſaid Lands,
 ‘ Liberties and Privileges, which both they and
 ‘ their Predeceſſors, as Burgeſſes of that Town,
 ‘ have

‘ have inherited and ought to enjoy ; but also
‘ subject your Petitioners and their Freeholds a-
‘ gainst their Will, to such Services, Damages,
‘ and great Inconveniences, as may be brought
‘ upon them by the Contrivances of the said
‘ Mayor and Aldermen, in Case they can obtain
‘ a new Charter to pass the Broad Seal, without
‘ the Privy, Consent or Hearing of your Peti-
‘ tioners.

‘ Your Petitioners therefore humbly pray
‘ your Lordship to take into Consideration
‘ the aforesaid Mischiefs, Damages and In-
‘ conveniences that are like to befall your
‘ Petitioners, and other Burgeesses of that
‘ Town, in Case such Surrender should
‘ be made and accepted, and a new Char-
‘ ter, taken by the said Mayor and Alder-
‘ men : And that your Lordship would
‘ please before such Surrender be accepted,
‘ or any new Charter for that Town passed
‘ the Broad Seal, to grant your Petitioners
‘ a Day of Hearing, and to order there-
‘ upon, as shall be agreeable to Equity and
‘ Justice.

And your Petitioners shall ever pray, &c.

The Petition being deliver’d as aforesaid, and Mr. Mayor having been acquainted in manner aforesaid, by the Generality of the Burgeesses, that they neither had consented, nor should consent to a Surrender of any of the Charters, Rights or Liberties of the Town ; and the Burgeesses having been advised by Council, that no Instrument for making a Surrender of the Charters to the Earl of *Hallifax* and Sir *Leoline Jenkins*, could be ef-
fectual in Law, it was hoped that there would not have been any further Progress in the Business, at least before the Burgeesses were heard upon their *Caveats* or Petitions. And it was taken for granted, that no new Instrument, in Order to any Surrender, could be made and sealed, with-

Page 553.

but calling together the Council of that Town; because by Custom of that Town, the Town-Seal hath always used to be kept under the Custody of three Locks and Keys, and not taken out but in Council; and those three Keys kept by three several Persons, for better preventing of any indirect Use of the Seal. But contrary to the Burgesse's Expectation, and against all antient Usage, (Mr. Mayor having, as he said, received Advice from *London*, that the Instrument he had sent up for surrendering the Charters was not sufficient) did on *Saturday* the 12th of *August* require of the senior Coroner to deliver him his Key; which the Coroner refusing to do, (unless, according to the Custom of the Town, a Council was called, and should order such Delivery) it seems Mr. Mayor found another Way to come by the Seal; if that be true, which was signified in the public Prints that came down to *Nottingham*, on the 19th of *August*, viz. That upon the 14th of *August*, a Surrender of *Nottingham* Charters was made to his Majesty. And there is one Thing which hath happen'd since, which gives a shrewd Light what Mr. Mayor did on that 12th of *August*, without so much as summoning a Council; for the Party, who, by Mr. Mayor's Command, as he saith, did that Day force open the Lock to which the Coroner's Key belong'd, hath since confess'd the Fact; so that now, if it should hereafter appear to be true, as those Prints seem to intimate, that any Instrument for surrendering of *Nottingham* Charters to his Majesty, was presented to his Majesty on the 14th of *August*, it will scarce be a Question, by what Means or how lawfully Mr. Mayor came by the Seal, or how valid such Surrender is like to be.

This is the true Case of the Burgesse's of *Nottingham*, who are ready to make good every Matter of Fact, as herein stated, whenever there shall be Occasion; and doubt not but to prove it, if they may either be heard upon their Petition or
Caveats;

Caveats; and however question not, but by the Assistance of the Courts of Justice, they shall still preserve their Rights, notwithstanding all those Endeavours that have been used to give up their Charters and Liberties.

The TRIAL of JOSEPH HAYES, * *at* Page 553.
the King's Bench Bar, for High Treason, in corresponding with Sir Thomas Armstrong, an Outlaw, for High Treason, Nov. 21. Mich. 36 Car. II. 1684.

WE have not the entire Proceedings in this Trial, nor does it appear by whom it was taken, or by what Authority it was published; but I shall omit nothing material here that is to be found in the Folio Edition.

On the 3d of November 1684, the Prisoner, *Joseph Hayes*, was brought by *Habeas Corpus* from the Gatehouse to the King's Bench Bar, and arraigned.

The

* Bishop Burnet, in his History of his own Time, Page 599, says: 'In *Armstrong's* Pocket, when he was taken, a Letter was found writ by *Hayes*, a Banker in *London*, directed to another Name, which was believed a feigned one: In it Credit was given him upon *Hayes's* Correspondent in *Holland* for Money: He was desired not to be too lavish; and he was promised, that he should be supplied as he needed it. Here was an Abetting of a Man outlawed for Treason. Much Pains was taken on *Hayes*, both by Persuasion and Threatning, to induce him to discover that whole Cabal of Men, that, it seemed, joined in a common Purse to supply those who had fled beyond Sea on the Account of the Plot. And they hoped to know all *Monmouth's* Friends; and either to have attainted them, or at least to have fined them severely for it. But *Hayes* shewed a Fidelity and Courage far beyond what could have been expected from such a Man: So he was brought to a Trial. He made a strong Defence: The Letter was not exactly like his Hand. It was not addressed to *Armstrong*, but to another Person, from whom he perhaps had it. No Entry was made of it in his Books, nor of any Sum paid in upon it. But his main Defence was, that a Banker examined

The Indictment.

The Indictment set forth, That the said *Joseph Hayes*, as a false Traitor, on the 31st of *August*, in the 35th Year of his present Majesty King *Charles II.* knowing *Sir Thomas Armstrong* to have conspired the Death of the King, and to have fled for the same, did traiterously relieve, comfort and maintain him, and for his Relief and Maintenance, did pay the Sum of 150 *l.* against the Duty of his Allegiance, &c. To which Indictment the Prisoner pleaded *Not guilty*.

Page 554.

Sir Robert Sawyer
 ycr Attorney
 General.

He was brought to his Trial before the Lord Chief Justice *Sir George Jefferies*, Mr. Justice *Holloway*, Mr. Justice *Withens*, and Mr. Justice *Walcot*, on the 21st of *November* 1684. Mr. Attorney General, in opening the Evidence observed, That the Prisoner had relieved *Sir Thomas Armstrong*, after he was indicted and sued to the Exigent, and after a Proclamation issued upon his Flight; That *Sir Thomas* went by the Name of *Henry Lawrence* beyond Sea, and by that Name the Prisoner held a Correspondence with him, sending him a Letter, dated the 21st of *August*, acquainting him he had sent him a Bill of Exchange for 165 *l.* drawn on his Brother *Israel*

‘ into no Persons Concerns; and therefore when Money or
 ‘ good Security was brought him, he gave Bills of Exchange,
 ‘ or Letters of Credit, as they were desired. *Jefferies* pressed
 ‘ the Jury, in his impetuous Way, to find *Hayes* guilty of
 ‘ High Treason; because, tho’ there was not a Witness against
 ‘ *Hayes*, but only Presumptions appeared upon the Proof, yet
 ‘ *Jefferies* said, it was proved by two Witnesses, that the Letter
 ‘ was found in *Armstrong’s* Pocket; and that was sufficient, the
 ‘ rest appearing by Circumstances. The little Difference be-
 ‘ tween the Writing in the Letter and his ordinary Hand, was
 ‘ said to be only a Feint to hide it; which made him the more
 ‘ guilty. He required the Jury to bring him in Guilty: And
 ‘ said, that the King’s Life and Safety depended upon this
 ‘ Trial: So that if they did it not, they exposed the King to a
 ‘ new *Rye-Plot*, with other Extravagancies, with which his
 ‘ Fury prompted him. But a Jury of Merchants could not be
 ‘ wrought up to this Pitch. So he was acquitted, which mor-
 ‘ tified the Court a little: For they had reckon’d, that now
 ‘ Juries were to be only a Point of Form in a Trial, and that
 ‘ they were always to find Bills as they were directed.

Hayes,

Hayes, who was acquainted with *Sir Tho. Armstrong*: That if it was not for this Receiving and Nourishing Traytors, they would not lurk at *Amsterdam*, as they did; and he hop'd they would take Care, by convicting this Gentleman, to stop the Fountain from whence such Supplies issued to those Traitors abroad.

Then the Indictment against *Sir Thomas Armstrong* was read, and afterwards the Proclamation; and the Witnesses were called and sworn.

Ezekiel Harris deposed, That he was at *Cleve* in *Germany* with the Lord Grey, who went by the Name of *Thomas Holt*; and *Sir Tho. Armstrong* came thither by the Name of *Henry Lawrence*, and shewed him a Bill of Exchange from *England* upon *Israel Hayes* in *Amsterdam* for 160*l.* odd Money, which was for 150 Guineas paid in *England*; and he said, it was drawn and signed by *Joseph Hayes*, and the Bill accepted: And he saw *Israel Hayes's* Letter to *Sir Thomas*, by the Name of *Lawrence*, which mentioned sending the said Sum to *Cleve*. The Evidence for the King.

Crispe, the Common Serjeant, then delivered a Parcel of Letters into Court, and deposed, that he received them from the Lord *Godolphin*, and they had been ever since in his Hands.

Lord *Godolphin* deposed, That he received the three Letters produced in Court from Mr. *Constable*, Mr. *Chudley's* Secretary, who told him, they were taken about *Sir Thomas*; and one of them without a Name, mentioned an hundred and fifty Guineas return'd to Mr. *Lawrence*.

Constable deposed, That he was present when the Scout of *Leyden* apprehended *Sir Thomas*, and the Letters were taken out of his Pocket; and the Deponent delivered them to Mr. *Chudley*, who sealed them up, and sent them by him to the Lord *Godolphin*.

Charles Davis depos'd, That taking Boat from *Amsterdam* to *Rotterdam*, he met *Israel Hayes* and *Sir Thomas Armstrong* coming to take Boat, and *Sir Thomas* went with him in the Boat, and

told him his Name was *Lawrence*; That the Deponent lodg'd a Month in one *Briscowe's* House at *Amsterdam*, where there was a Club every *Thursday*, and that *Israel Hayes*, *Henry Ireton*, *Wilmore*, *Emerton*, *Dare*, and other *English* Merchants met there; and he heard them several Times abuse the King at Table.

Walpole depos'd, That he serv'd the Prisoner, *Mr. Hayes*, four Years and upwards; and the Letter above-mention'd being shewn him, he said, He believ'd it was *Mr. Hayes's* Hand.

Mr. Hayes insist'd, That in High Treason a Comparison of Hands and Belief was not to be admitted as Evidence; but the Court over-ruled this Objection.

Then the King's Counsel produc'd the Books belonging to the *East-India* Company, with whom *Mr. Hayes* had made several Contracts, to prove his Hand.

Harman depos'd, That he saw the Prisoner subscribe his Name to a Contract in one of the Books which was shewn him; and one *Brittle*, a Porter to the Company, depos'd the like.

Capt. Piercehouse depos'd, That the Hand was *Mr. Hayes's*, which was set to a Note he produc'd, and that he deliver'd Goods upon it; and being compar'd with the Book, *Walpole* said he believ'd it to be *Mr. Hayes's* Hand.

Then the Letter was read, being subscrib'd *Joseph Hayes*, and dated 31 *August*, 1683. It was directed to *Mr. Henry Lawrence*, Sen. at *Amsterdam*, and began thus: *Sir, At your Desire I have sent you a Bill, &c.* And the Letter and Books were shewn to the Jury.

Page 555.

The Prisoner deny'd the Letter to be of his Writing, and desir'd Counsel on those Points, Whether a Comparison of Hands and Belief were Evidence.

The Chief Justice answer'd, It was a mere Whim of *Mr. Sidney's*, and no Grounds for it.

Then a Note was produc'd, and *Constable* depos'd, It was one of the Papers taken out of *Sir Tho.*

Tho. Armstrong's Pocket; it was for 161 l. 5 s. which the Common Serjeant observ'd, was the Change of 150 Guineas: But being shewn to the Jury, they objected, that no Body prov'd the Hand that was to the Note.

The Prisoner said in his Defence, That there was but one Witness, that the Letter was found in *Sir Tho. Armstrong's* Hands, and ——— *Everis* deposing, That he saw a Bill with the Prisoner's Name to it; he answer'd, That *Everis* did not know him, and had never seen his Hand, or any Money paid on the Bill, which *Everis* acknowledged; but said, he had seen a Letter from Mr. *Israel Hayes*, that gave some Account of it.

The Prisoner observ'd further, That it was not prov'd, as laid in the Indictment, that he knew of *Sir Tho. Armstrong's* Treason; and though the Court were pleas'd to say, that the Indictment and Proclamation were sufficient Notice that he was a Traitor, that would admit of Counsel to debate it; there ought to be Witnesses also to shew that he was concern'd with him; and indeed no one could prove that he ever saw him; and though some of the Witnesses heard of Money being paid upon this Bill, not one of them could say they saw it paid; and they were several Witnesses, every one to a several Thing; That if they alledg'd the Money was paid beyond Sea, the Indictment was not well laid; for it was laid to be paid in *London*, and a Jury of *London* could only enquire of Matters arising there: And he desir'd Counsel to this Point.

Lord Chief Justice: It is an idle Whim: I would fain know the Counsel that put that foolish Notion into your Head.

Mr. Hayes: If you will allow me Counsel, you shall hear who they are.

Lord Chief Justice: We are of another Opinion: If any whimsical Notions have been infus'd into you by some enthusiastick Counsel, the Court is not to take Notice of such Crotchets.

Mr.

Mr. *Sturdivant* being call'd as a Witness by the Prisoner, depos'd, He had had Dealings for several thousand Pounds with the Prisoner, who had given him many Receipts, and he did not believe the Letter produc'd to be his Hand.

Mr. *Hayes*: I am not a Man of that Quality, to give Sir *Tho. Armstrong* 150 Guineas.

Lord Chief Justice: We all know you have been a very active Man, a busy Fellow about the City; you have always been factious and turbulent against the King and Government.

Mr. *Hayes*: Mr. Common Serjeant had my Books in his Hands several Days, where is an Account of 20,000 *l.* between my Brother and me; and if I would set my Hand to such a Letter and Bill, is it not reasonable I should put the Name of *Lawrence* in my Books; and if it was there, it would appear.

Then Mr. *Hayes* call'd several to his Reputation, who gave him a fair Character; after which Mr. Attorney call'd Mr. *Atterbury* as a Witness for the King.

Page 556.

Atterbury depos'd, That he apprehended the Prisoner, and brought him before his Majesty; and the Lord Keeper *North* pressing him to own, whether it was his Hand; the Prisoner said, he should say nothing to it; if they could prove it upon him, well and good.

Lord Chief Justice: I was there; he said, I am not bound to accuse my self; but did not absolutely deny the Letter.

The Prisoner's
Defence.

Mr. *Hayes*: I did hope I should have had Counsel to the Points I mention'd; I never knew any Thing of the Conspiracy, but by the Trials or printed Papers; none of the Conspirators charge me with being privy to it. Gentlemen of the Jury, my Life is concern'd, and I beg you would consider what the Witnesses have testified, That they are not positive, and that no Two of them prove any one Fact: It is hard a Man's Life should be in Danger by Comparison of Hands, when in lesser Crimes it has been denied to be

Evidence: None of you can escape the same Danger, if this Evidence be allow'd; for your Hands may be counterfeited as well as mine.

With Reverence to the Divine Majesty, I call God, Angels and Men to witness, before whom, for ought I know, I am quickly to appear, that I never spoke to Sir *Tho. Armstrong*, or ever was in his Company, or wrote to him by the Name of *Lawrence*, or any other Name; and I do solemnly say, in the Presence of God, that I never gave, sent, lent, paid, or ordered to be paid, any Money, directly or indirectly, to Sir *Tho. Armstrong* or *H. Lawrence*, or to him by any other Name, or to his Use: I speak it without any Counterfeiting or Equivocation.

Gentlemen, There have been Overtures made me, if I would say some Things, that my Life might be saved: And it is not to be believ'd that I would run the Risque of my Life, if by speaking the Truth I could save it.

Here the Chief Justice reprehended him, asking what he meant, and bid him speak what was decent and fit for them to hear, and not insinuate as if the Government would make any such Compacts as he talk'd of.

Mr. *Hayes*: I say it has been told me, The Way to save my Life is to confess; Mr. *Foster*, by Name, told me, There was no Way for me to escape, but by Confession.

Lord Chief Justice: You had best call Mr. *Foster*, to know how he came to tell you so: If you do, I will tell you of another Thing: Of * 4 or 5000 *l.* that was offer'd for your Escape: You had

Page 557.

* The Story of the 4 or 5000 *l.* was this: An eminent Papist, very acceptable to King *Charles* the Second, undertook to some of the Friends of Mr. *Hayes*, that a Pardon should be had for 4000 Guineas to the King, and 1000 to himself; but he afterwards declared, That the King had refus'd him therein, and told him, That he was advis'd, that he had better give that Popish Friend 4000 *l.* out of the Exchequer, than pardon *Hayes*; but that he gave his Royal Word, That the Overture should not hurt Mr. *Hayes*.

better forbear, or I shall put you in Mind of a Brother of some Body at the Bar.

Mr. *Hayes*: Gentlemen; I have declared to you the whole Truth, with all the Solemnity that becomes an innocent Man: Besides, the Evidence you have heard, is all but Circumstance and Hearsay; and shall a Man's Life be taken away for, *I believe, I think, or I have heard.* You are my Fellow Citizens and Fellow Christians, of the same Reform'd Religion that I am, and I hope you are sworn into this Service without any Prejudice against me, but with an impartial Resolution to do Justice, and therefore I chearfully leave the Matter with you; we must all die, and I am sure it will be no Grief to you to acquit a Man that is innocent: I leave it with you; The Lord direct you.

Lord Chief
Justice's Di-
rection to the
Jury.

Lord Chief Justice: Gentlemen of the Jury; you are to try this Matter according to your Evidence: The Prisoner's Affirmation of his Innocence is not to weigh with you; several of the Conspirators did, with as much Solemnity, imprecate Vengeance on themselves, if they were guilty of any Treason: They thought they did God Almighty good Service in that hellish Conspiracy: One of the Persons particularly, who was proscrib'd in this Proclamation, did declare, They should be so far from being esteem'd Traitors, that Trophies would be erected to their Honour; and all this under the Pretence and Enamel of Religion: Another at the Brink of Death, bless'd God he died by the Hand of the Executioner with the Ax, and not by the fiery Trial: He blessed God he died a Traitor, rather than a Martyr to his Religion. I think it necessary to make some Reflection upon it, when Men, under Pretence of Religion, are wound up to that Height, to disturb the Government, destroy the Foundations of it, murder his sacred Majesty and his Royal Brother, and subvert our Religion and Properties: As the Blood of a Man is precious, so the Government also is a precious Thing; the Life of the King is a precious Thing; the Preservation of our Religion

gion a precious Thing; and due Regard therefore must be had to all of them. In this horrid Conspiracy, Persons had their several Parts; some to head them, others to advise, others to execute, &c. And others (which was the Prisoner's Case) were to be aiding, abetting, and assisting, by Money, or otherwise; or harbouring the Persons that were concern'd therein. *Then he recounted the Evidence given against the Prisoner, (which is not printed in the Folio Edition) and made such Remarks, as he thought fit.*

The Jury being withdrawn, return'd about two Hours afterwards with their Verdict, That the Prisoner was **NOT GUILTY.**

He is acquitted.

Mr. Attorney General: My Lord, though he be acquitted, yet the Evidence is so strong, that I hope the Court will bind him to his Good Behaviour during Life.

Lord Chief Justice: That is not a proper Motion at this Time.

Then the Prisoner was discharg'd, having lain five Months in Prison before his Trial.

The End of the SEVENTH VOLUME.

STATE TRIALS

OF
THE
LORDS OF THE KINGDOM OF GREAT BRITAIN
IN PARLIAMENT ASSEMBLED
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND SEVENTY TWO

AND OF THE
COMMONS OF THE SAME KINGDOM
IN PARLIAMENT ASSEMBLED
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND SEVENTY TWO

IN THE TRIAL OF
THE LORDS OF THE KINGDOM OF GREAT BRITAIN
IN PARLIAMENT ASSEMBLED
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND SEVENTY TWO

IN THE TRIAL OF
THE LORDS OF THE KINGDOM OF GREAT BRITAIN
IN PARLIAMENT ASSEMBLED
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND SEVENTY TWO

IN THE TRIAL OF
THE LORDS OF THE KINGDOM OF GREAT BRITAIN
IN PARLIAMENT ASSEMBLED
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND SEVENTY TWO

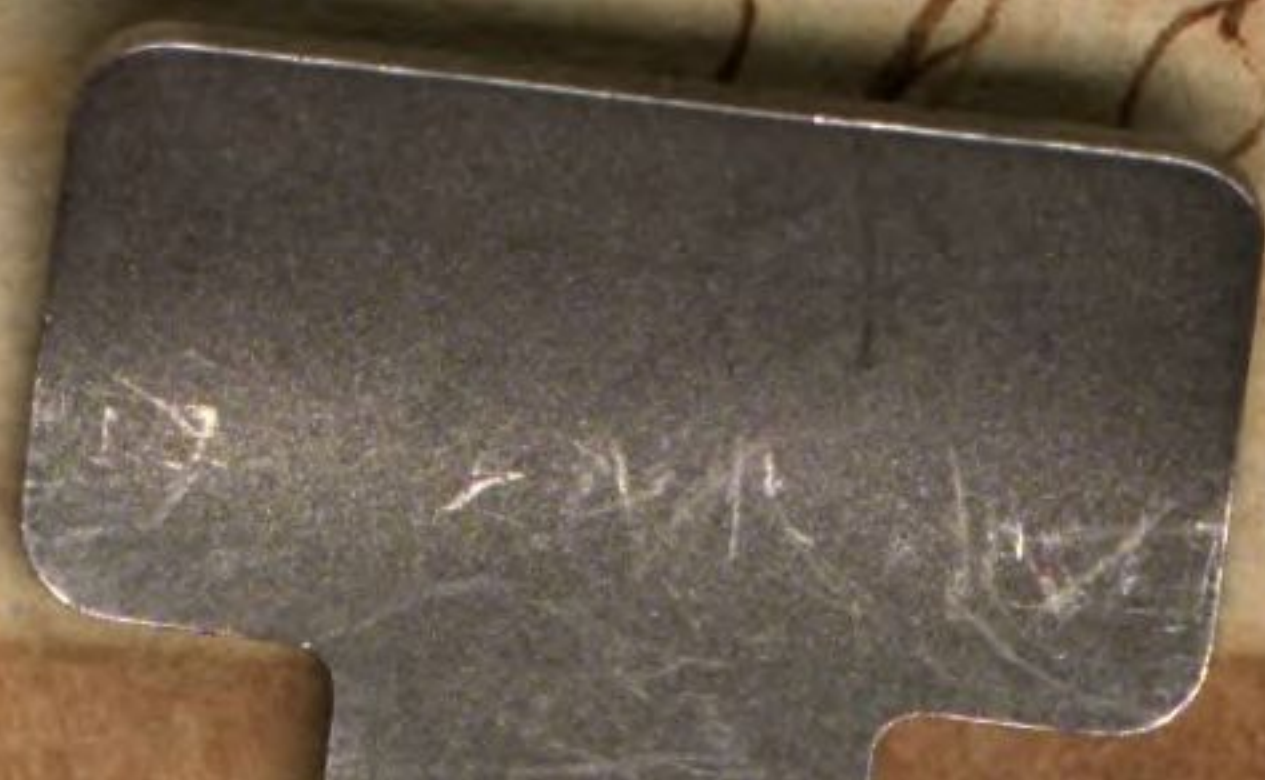
IN THE TRIAL OF
THE LORDS OF THE KINGDOM OF GREAT BRITAIN
IN PARLIAMENT ASSEMBLED
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND SEVENTY TWO

IN THE TRIAL OF
THE LORDS OF THE KINGDOM OF GREAT BRITAIN
IN PARLIAMENT ASSEMBLED
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND SEVENTY TWO

IN THE TRIAL OF
THE LORDS OF THE KINGDOM OF GREAT BRITAIN
IN PARLIAMENT ASSEMBLED
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND SEVENTY TWO

IN THE TRIAL OF
THE LORDS OF THE KINGDOM OF GREAT BRITAIN
IN PARLIAMENT ASSEMBLED
IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND SEVENTY TWO

283





Tryals for high-treason, and other crimes with proceedings on bills of attainder, and impeachments, for three hundred years past, to which are prefix'd a preface, giving an account of the nature and usefulness of the work and an alphabetical table of the respective persons try'd, and the
Bd.: 7

London (1731)

Brit. 524-7

urn:nbn:de:bvb:12-bsb10282109-6